

REPORT BY THE

Comptroller General

OF THE UNITED STATES

COASTAL ZONE
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Essential Management Functions At The Federal Maritime Commission Are Not Being Performed

To become a more efficient and effective regulator of ocean shipping, the Federal Maritime Commission needs to

- have a continuous and systematic planning capability,
- establish a management information system for control and evaluation,
- expand its auditing and investigating activities,
- determine specific staffing needs and training requirements, and
- give greater attention to improving communication.

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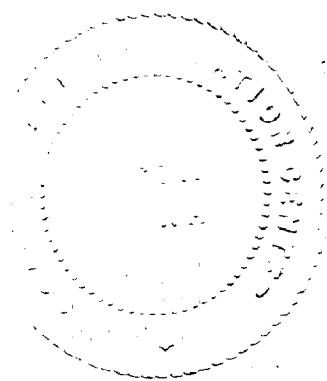
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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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The Honorable John M. Murphy
Chairman, Committee on Merchant
Marine and Fisheries
United States Senate

Dear Mr. Chairman:

Pursuant to your October 13, 1978, request, we have reviewed the management and organizational effectiveness of the Federal Maritime Commission.

This report makes several recommendations for improving management and direction of the Commission which will be useful to the Congress in its critical reexamination of basic national maritime policy and regulation and to the Commission in its management of ocean regulatory activities.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 3 days from the date of the report. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

Comptroller General
of the United States

CZIC COLLECTION

U.S. General Accounting Office

COMPTROLLER GENERAL'S
REPORT TO THE CHAIRMAN,
COMMITTEE ON MERCHANT MARINE
AND FISHERIES
HOUSE OF REPRESENTATIVES

ESSENTIAL MANAGEMENT
FUNCTIONS AT THE
FEDERAL MARITIME COM-
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PERFORMED

D I G E S T

Because of growing criticism of increasing Government regulation and the steadily declining worldwide position of the U.S. merchant marine, the Congress is making a critical reexamination of basic national maritime policy and regulation of ocean transportation. This report contains GAO's recommendations for correcting management weaknesses and improving Commission operations.

GAO found that the Commission was not adequately performing essential management functions such as planning and internal auditing, nor did it have an effective management information system. Further, certain other regulatory functions were not being fully carried out, perhaps due to understaffing.

PLANNING MUST BE PERFORMED

A planning process would aid management in defining agency goals and objectives, in setting priorities to achieve them in accordance with established policies, and in setting performance standards to measure results to feed back into the continuing planning process. But the Commission did not have a staff to continuously and systematically carry out this process. (See pp. 6, 7, and 10.)

The Commission's planning activities were limited, uncoordinated, and related primarily to short-term objectives. As a result, the Commission's regulatory actions were delayed, ad hoc, crisis oriented, and reactive as opposed to anticipatory and preventative. For example, five staff analysts made five completely different recommendations as a result of their separate

reviews of a specific type of pending shipping agreement. Since no written policies or guidelines existed in this area, the Bureau Director sent all five recommendations back to the staff with comments on what he thought Commission policy was for this type of agreement. (See pp. 8 to 13.)

GAO is recommending that the Chairman establish an office of planning. (See p. 14.)

INFORMATION NEEDED FOR MANAGEMENT CONTROL

To effectively plan for, evaluate, and control Commission performance, the Chairman, the Commissioners, and managers at all levels need, but do not have, a management information system providing complete, accurate, and current data on how Commission moneys, people, and equipment are being used to reach its goals and objectives. (See pp. 16 and 17.)

Most, but not all, bureaus and offices prepared either monthly or quarterly reports, but the reports did not contain enough decision-oriented information such as predetermined standards and estimated target dates to measure progress and accomplishments, and many did not include information on all the work that was done. For example, because its monthly report was only geared to listing amendments that had been received, the Office of Agreements did not report on its review and followup work with 43 conferences that had not submitted required amendments to their agreements. In many other instances, the basic information was not even recorded. (See pp. 18 to 22.)

The Commission has recognized the need for a management information system and has hired an analyst to begin assessing needs. GAO is recommending that the Chairman establish a steering committee to achieve effective automatic data processing support to meet its managerial and operational needs. (See pp. 22 to 25.)

AUDITING ACTIVITIES SHOULD BE EXPANDED

One effective managerial tool is auditing. Auditing, in its broadest sense, is the regular and independent appraisal of the accounting, financial, and other operations of the organization. (See pp. 26 and 27.)

GAO found:

- There was no internal audit unit to perform the auditing necessary to provide top management with an independent analysis of the Commission's operations. (See p. 28.)
- Productive external audits and investigations were being performed but some types of investigations such as regular compliance work could not be carried out due to limited staff. (See pp. 28 to 30.)

GAO is recommending that the Chairman establish an independent internal audit organization reporting directly to the Chairman. GAO is also recommending that external audits and investigations be planned, coordinated, and performed by its existing investigative bureau. (See p. 31.)

STAFF RESOURCES MAY BE NEEDED

The Commission may not have a sufficient number of adequately trained staff to carry out its expanding regulatory duties and to perform essential management functions. While it had been given 38 additional staff positions in fiscal years 1978 and 1979--the first in 4 years--it still had backlogs and delays in completing work and could not perform essential work in many bureaus and offices. For example, implementation of the regular and essential work of a newly established office was deferred during most of GAO's review because of the additional workload imposed by numerous special projects and a new law. (See pp. 32 to 38.) Five new laws enacted since December 1977 have increased the Commission's workload. (See p. 3.)

The Commission has not determined its specific staffing requirements to convincingly demonstrate and support requests for additional staff positions and training funds. (See pp. 39 to 41.)

GAO is recommending that the Chairman determine specific staffing needs and training requirements. (See p. 41 and 42.)

DIRECTING AND COMMUNICATING
TO IMPROVE ORGANIZATIONAL
EFFECTIVENESS

Directing organizations is a most difficult and complex function of management. The effective and skillful leader directs, communicates with, and motivates staff to work with enthusiasm and confidence--qualities commonly referred to as morale. GAO believes the lack of good communications at the Commission were attributable to the leadership style of the Chairman, ignoring the chain-of-command, and oversight by busy managers. (See pp. 43 to 48.)

GAO is recommending that the Chairman establish a continuing Commission goal of "improving communications" and that he take a personal interest in assuring that a participatory management approach is actively pursued throughout all levels of the Commission. (See p. 48.)

AGENCY COMMENTS

The Chairman provided GAO with two written replies to this report--general comments on November 2, 1979, and detailed, specific comments on December 3, 1979. The Chairman agreed with the report's recommendations except for GAO's proposal that the Commission develop an independent internal audit capability. He did not believe that such a capability was practical for an agency of the Commission's size and character, nor did he believe that one was necessary because of the Commission's quasi-judicial process. (See app. IV.)

The size of an organization should have a bearing on the size of an internal audit staff, not on the fact that a staff is needed. The quasi-judicial process may have some built-in control features, but it does not provide management with regular and independent appraisals of accounting, financial, and internal operations. Other quasi-judicial bodies use internal auditors. Further, the types of findings discussed throughout this report and the Commission's use of a task force to explore areas normally covered by internal auditors provide ample evidence of the need for an independent internal audit unit within the Commission. (See p. 31.)

In his second letter, the Chairman said some of the problems were attributable to statutory or budgetary constraints over which the Commission had no control, other problems were the target of significant Commission initiatives which have not been noted in the draft report, and still other problems were undocumented by factual information. GAO believes it has adequately demonstrated the basis for its findings and has responded with detailed comments to the Chairman's letter in appendix V.

The Chairman's comments and/or GAO's evaluations are also contained on pp. 14 and 15, 25, 31, 42, and 49.

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ABBREVIATIONS

ADP	automatic data processing
FMC	Federal Maritime Commission
GAO	General Accounting Office
OMB	Office of Management and Budget
ZBB	zero-based budget

CHAPTER 1

INTRODUCTION

The growing criticism of increasing Government regulation and delay and the steadily declining worldwide position of the U.S. merchant marine has led to a critical reexamination of basic national maritime policy and the regulatory scheme under which the international ocean liner shipping trade must operate in this country. The most sweeping changes proposed to date are contained in the Omnibus Maritime Regulatory Reform, Revitalization, and Reorganization Act of 1979, introduced by the leadership of the House Committee on Merchant Marine and Fisheries. ^{1/} This proposed legislation is intended to minimize delay, decrease Government regulation, and insure competitive rates to U.S. shippers. The bill also mandates a Government reorganization.

The present Federal Maritime Commission (FMC) Chairman has undertaken many new initiatives, as recognized in various parts of this report, and he has been instrumental in FMC's efforts to reduce the backlog and delay in issuing final Commission decisions. More, however, needs to be done. This report contains recommendations for improving management practices at FMC, and it will aid the Congress in its deliberations on proposed maritime legislation. Regardless of any changes which may be made to FMC's present organizational structure, the basic management weaknesses discussed in this report will still need to be corrected.

PURPOSE AND RESPONSIBILITIES OF FMC

FMC was established as an independent regulatory agency by Reorganization Plan No. 7, effective August 12, 1961. This separated the carrying out of the Nation's ocean shipping laws into two categories--regulatory and promotional functions--and provided that two different Federal agencies administer these laws. The Maritime Administration, Department of Commerce, was assigned the promotional responsibility. FMC was given responsibility to regulate the ocean commerce of the United States.

FMC administers a portion of a number of Federal statutes, including the Shipping Act of 1916, the Intercoastal Shipping Act of 1933, the Merchant Marine Acts of 1920 and 1936, and the Federal Water Pollution Control

^{1/}Other Members of the House and Senate have introduced numerous bills which propose less extensive changes.

Act Amendments of 1972. FMC has implemented programs to regulate ocean shipping and common carriers by water in U.S. foreign commerce and domestic offshore commerce. The U.S. foreign commerce covers the import or export trade between the United States or any of its districts, territories, or possessions and a foreign country. The domestic offshore commerce covers ocean shipping between offshore States, possessions, and territories and the U.S. mainland.

FMC's principal regulatory responsibilities include:

- Regulation of services, practices, and agreements of U.S. and foreign line common carriers by water and other persons engaged in U.S. foreign commerce.
- Receipt and review of tariff filings, but not the regulation of rates, by U.S. and foreign line common carriers by water engaged in the U.S. foreign commerce.
- Regulation of rates, charges, classifications, tariffs, and practices of U.S. common carriers in the domestic offshore trade.
- Licensing of independent ocean freight forwarders. (A freight forwarder, on behalf of others, handles the formalities of shipments by oceangoing common carriers for a fee.)
- Issuance of passenger vessel certificates evidencing financial responsibility of vessel owners or charterers to pay judgments for personal injury or death or to repay fares for the nonperformance of a voyage or cruise.
- Issuance of certificates showing financial responsibility for cleanup costs resulting from oil-spills or other hazardous substances discharged into the navigable waters of the United States.
- Investigations of discriminatory rates, charges, classifications, and practices of U.S. and foreign line common carriers in both U.S. and domestic offshore commerce, terminal operators, and freight forwarders.
- Rendering decisions, issuing orders, and adopting rules and regulations governing common carriers by water in U.S. foreign and domestic offshore commerce, terminal operators, freight forwarders, and other persons subject to shipping statutes.

FMC is most visible when carrying out its responsibilities under section 15 of the Shipping Act of 1916. Since FMC approval of agreements under section 15 exempts ocean carrier conferences from the U.S. antitrust laws, FMC has the responsibility to review and evaluate all proposed agreements to insure they do not exploit the antitrust immunity. FMC must weigh the anticompetitive effects of any shipping agreement against its potential public benefits. (See app. III for the results of our review of section 15.)

In the recent past FMC's responsibilities have been increased by the following laws:

- The Clean Water Act of 1977, enacted on December 27, 1977, provides that vessels be recertified with respect to financial responsibility for oil pollution and to certify, for the first time, certain other hazardous substances.
- Outer Continental Shelf Lands Act Amendments of 1978, enacted on September 18, 1978, provides that vessels be certified with respect to financial responsibility for oil pollution in the Outer Continental Shelf.
- The Ocean Shipping Act of 1978, enacted on October 18, 1978, requires the development of new regulatory procedures for eliminating the threat of predatory ratecutting by foreign state-controlled carriers.
- The Intercoastal Shipping Act, 1933, Amendment also enacted on October 18, 1978, provides new regulatory procedures for domestic offshore rate proceedings, including specific time limits within which the FMC must conclude action on such proceedings.
- Shipping Act Amendments of 1979, enacted on June 19, 1979, strengthened various provisions of law prohibiting rebating practices in U.S. foreign trades.

ORGANIZATION OF FMC

FMC is composed of five Commissioners appointed by the President for 5-year terms with the advice and consent of the Senate. Not more than three members may belong to the same political party. The President designates one

Commissioner as Chairman. The Chairman is the chief executive and administrative officer responsible for the internal administration of FMC.

Four offices report directly to the Chairman--Administrative Law Judges, the General Counsel, the Secretary, and the Managing Director. The Administrative Law Judges conduct hearings and render decisions in formal rulemaking and adjudicatory proceedings. The General Counsel serves as law adviser to the Commissioners, giving them legal counsel on all matters under consideration. The Secretary performs those administrative and recordkeeping functions analogous to those carried out by a clerk of the court. The Managing Director handles the direct administration of staff, activities, and programs.

The five operating bureaus which report to the Managing Director carry out the following functions:

- The Bureau of Ocean Commerce Regulation, the largest operating bureau, is responsible for most of FMC's regulatory programs. It oversees the competitive practices, pricing, and other regulated activities of common carriers by water in the foreign and domestic offshore commerce of the United States, conferences of such carriers, terminal operators, and other persons subject to FMC jurisdiction.
- The Bureau of Certification and Licensing is involved in certifying vessels under various Federal antipollution laws and is responsible for licensing independent ocean freight forwarders and certifying of passenger vessels.
- The Bureau of Industry Economics is divided into four operating offices which develop and analyze financial, economic, and environmental data and perform automatic data processing activities.
- The Bureau of Hearing Counsel participates in formal proceedings before the Administrative Law Judges and the Commissioners and also serves as the staff's legal adviser.
- The Bureau of Enforcement investigates the activities of those people and common carriers subject to FMC's authority. FMC's district offices report to this Bureau and, besides conducting investigations, provide information, assistance, and advice to all interested parties in their districts.

FMC also has an Office of Budget and Program Analysis, Office of Personnel, and the Division of Office Services. (See app. I for FMC's organization chart.)

FMC is a small agency with 357 permanent positions for fiscal year 1979 and a total fiscal year 1979 appropriation of \$10,750,000. Most of the Commission's employees are located in Washington, D.C., although FMC maintains district offices in New York, New York; Chicago, Illinois; San Francisco, California; New Orleans, Louisiana; and Hato Rey, Puerto Rico.

SCOPE OF REVIEW

Our review was made pursuant to an October 13, 1978, request from the Chairman, House Committee on Merchant Marine and Fisheries. (See app. II.) On February 5, 1979, we briefed the committee staff on the first phase of the request to determine whether the FMC was reviewing section 15 shipping agreements in an effective and timely manner in accordance with the criteria specified in shipping laws and regulations. (See app. III for a copy of the letter to the Chairman, FMC, informing him of the first phase results.) The second phase of the request concerned the organization and management of FMC and is the subject of this report.

We performed our work at FMC headquarters in Washington, D.C., where we interviewed FMC employees and other key officials, including the Commissioners, the Managing Director, and the Bureau Directors. We obtained responses to our questionnaire on management functions from the Managing Director, the Bureau Directors, and the heads of principal offices. We reviewed available reports 1/ of studies undertaken by the Commission's task forces on Organization and on Statutory Review. We also reviewed FMC's management functions and operations; and administrative procedures, internal correspondences, records, and files; and studied the Shipping Act of 1916 and other specific acts affecting FMC operations.

1/Reports on the Bureau of Enforcement and on administrative activities were not completed or available during our review.

CHAPTER 2

CONTINUOUS AND SYSTEMATIC PLANNING

MUST BE PERFORMED

The Federal Maritime Commission has no continuous and systematic approach to planning. It has performed only some limited, planning activities. Thus it lacks overall direction in carrying out its regulatory responsibilities, leading to reduced effectiveness. To overcome these problems, the Chairman must make a commitment to fully implement continuous and systematic planning and establish an organizational planning structure.

PLANNING--A BASIC FUNCTION OF MANAGEMENT

Planning is a basic management function. It is deciding in advance what, how, when, and who is to do something. Planning involves defining agency goals and objectives in relation to missions, setting priorities to achieve them in accordance with established policies, and setting performance standards to measure results to feed back into the planning process.

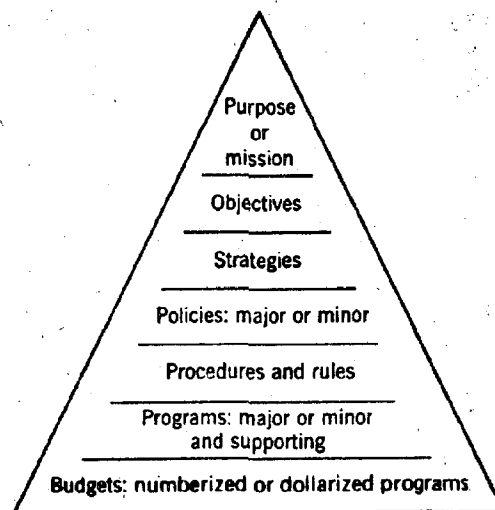
Planning is essential to management in that it focuses attention on goals and objectives, offsets future uncertainty and change, better assures more economical operations, and facilitates control. Effective planning could help FMC in the following ways:

- Focus attention on goals and objectives. These should be based on FMC's mission as established by various laws. These goals and objectives would guide long-range and short-range planning, overall policymaking, and the activities of each organizational unit.
- Offsetting future uncertainty and change. A forward-looking capability could provide a perspective on the possible effect of many issues, aid in developing long-range plans, and help develop contingency plans to handle possible crises.

--Better assures more economical operations. The zero-based budget (ZBB) ^{1/} is a short-range plan which is to be used to prioritize activities, estimate future workloads, allocate resources, and set performance standards. The planning function would oversee the development and execution of the short-range plan and coordinate it with FMC's long-range plans, objectives, and goals.

--Facilitating control. An FMC plan, as is the case in all plans, must and should set standards in order to measure results. In FMC, an effective planning function would monitor results to revise both long-range and short-range plans. Chapter 3 discusses, in greater detail, FMC's need for management control.

The failure of some managers to recognize the variety of plans has often caused difficulty in making planning effective. These various plans can be looked upon as a hierarchy for planning, as depicted in the following diagram. ^{2/}



^{1/}Zero-based budgeting is an annual budget formulation and review process which demands a total rejustification of every program from zero. It requires that all activities and operations be identified in decision packages which are evaluated and ranked in order of importance by systematic analysis.

^{2/}Harold Koontz and Cyril O'Donnell, "Essentials of Management," (McGraw-Hill, Inc., 1978), pp. 59-60.

FMC'S LIMITED PLANNING

FMC's planning is limited, uncoordinated, and related primarily to short-term matters. It includes the setting of goals and objectives by the Chairman, the establishment of task forces to look into specific problems, occasional studies by staff economists, and the annual preparation of the ZBB. Also, FMC does not have a planning staff.

Chairman's goals and objectives

FMC's Chairman, before the Subcommittee on Merchant Marine, House Committee on Merchant Marine and Fisheries, in August 1978, highlighted the following short-term objectives, goals, and basic aspirations.

The short-term objectives were:

- Statutory review and legislative recommendations to the Congress which will make FMC more responsive to shipping needs.
- Analysis and evaluation of FMC's internal organizations to determine how it can best use existing resources to achieve statutory objectives with greatest possible effectiveness and economy.
- Full use of Commissioners.
- Development of strategies for streamlining FMC's decisionmaking process without sacrificing the quality of its regulatory decisions.
- Opening FMC to greater input from all segments of the ocean-shipping community, as well as the public.

According to the Chairman, the achievement of these objectives would lead FMC toward two longer range goals:

- Developing a balance between the interests of shippers and carriers before FMC.
- Making FMC truly responsive to the public and protective of the public interest.

Further, the Chairman stated that,

"These goals and objectives can be synthesized into one basic aspiration which we consider to be the ultimate mission of the FMC: To insure that shippers transport and consumers

receive goods and services at a fair and equitable price, through methods that comport with the shipping laws of the United States."

While the mission statement by the Chairman is a good synthesis of the purposes of the laws that FMC must carry out, we found no long-range plans that established courses of actions and laid out how FMC was going to accomplish the longer range goals.

FMC has progressed toward meeting the Chairman's short-term objectives by (1) establishing a number of task forces, each chaired by a Commissioner, (2) placing greater emphasis on clearing out backlogs and minimizing delays, and (3) giving more consideration to the impact its decisions will have on shippers. In fact, the Chairman has recently stated that his short-term objectives have been almost fully achieved.

FMC's task forces

The Chairman recognized that there were problem areas needing attention and established task forces to look into the shipping statutes, FMC's organization, domestic rate-making, and other matters.

The Statutory Review Task Force was directed by the FMC Chairman. Its efforts extended over 18 months and in July 1979 resulted in draft legislation to revise the foreign shipping statutes.

The Task Force on Commission Organization was started in February 1978. As a result of the task force report, a partial reorganization took place in January 1979 when the Bureau of Ocean Commerce Regulation was established. However, while other bureau and office studies have been completed, the task force chairman has decided that no further organizational changes will be recommended until all of FMC had been studied.

The Domestic Rate Task Force was established in August 1978 to improve the domestic offshore rate regulation process. However, since the process was revised by legislation enacted in October 1978, the task force is overseeing the implementation of this legislation and studying the regulations applicable to independent ocean freight forwarders.

These task forces have brought about certain needed changes as a result of their work. However, task forces

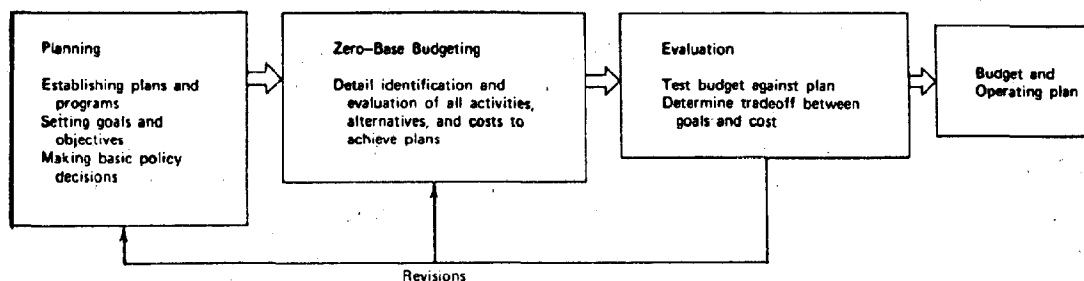
are used to solve specific problems and do not replace the need for a continuous and systematic approach to planning.

Economic studies

Economic and policy studies are periodically requested by the Chairman or Managing Director. FMC's Office of Economic Analysis, Bureau of Industry Economics, has undertaken some studies which are useful and important for planning and policy formulation purposes, such as the "Hawaiian Trade Study: An Economic Analysis" and "Soviet Maritime Activities in Liner Trades of the United States." It has also participated in developing maritime policy issues for FMC's report to the President's Interagency Maritime Task Force.

ZBB a planning document

A planning document FMC has is the annual zero-based budget which is submitted to the Office of Management and Budget (OMB). The ZBB is an important element in planning and control, but it represents a short-term plan of action. Successful planning requires a more complete, long-range perspective and a more thorough feedback process than annual budgeting can provide. ZBB preparation cannot be a surrogate for planning; rather, it is a limited part of the planning process, as depicted in the following diagram. ^{1/}



No planning staff

FMC does not have a planning staff. Each Commissioner and the Chairman believe FMC needs a better planning capability. The Chairman attributed the lack of a planning staff primarily to budget limitations. Further, he said that a planning staff would need the proper mix of people from within FMC, additional staffing from outside FMC, and maybe some part-time consultants. Another Commissioner thought

^{1/}Peter A. Pyhrr, "Zero-Base Budgeting, a Practical Management Tool for Evaluating Expenses" (John Wiley & Sons, 1973), p. 3.

that a permanent planning staff, along with the Chairman's task force approach, may be the best way to meet FMC's needs for long-range planning and problem solving.

The lack of a continuous and systematic planning capability at FMC has existed for a long time. The Chairman has seen this as a problem but has made no commitment to correct it. Staffing needs are discussed in chapter 5.

PERFORMANCE AND POLICYMAKING HAVE BEEN HAMPERED BY LACK OF PLANNING

Because of the lack of comprehensive planning, FMC has not been as efficient, effective, or economical as it might have been in carrying out its regulatory responsibilities. This lack of planning has

- contributed to regulatory delay and inaction in improving the regulatory process;
- forced crisis oriented decisionmaking which is reactive as opposed to anticipatory and preventative; and
- perpetuated the ad hoc, case-by-case decisionmaking process.

Regulatory delay and inaction

The lack of planning contributes to regulatory delay and inaction in improving the regulatory process. With properly established goals, objectives, and priorities, management would have been better able to focus on correcting the serious backlogs and delays experienced in processing agreements, tariffs, and formal proceedings.

For example, congressional action was necessary to improve the timeliness of FMC's processing of domestic tariff increases--the only area where FMC has rate regulatory authority. The long delays developed in the early 1970s as the benefits of containerization ^{1/} could no longer absorb the rising cost of ocean transportation and the domestic carriers applied more and more frequently for larger increases. The large number of requests for rate increases overburdened FMC's complex, adjudicatory type of rate proceeding, causing long delays--up to 5 years. If FMC

^{1/}Containerization refers to the packing of various sizes of cargo into uniform boxes for ease of transportation.

had a planning function, it would have focused on these long delays as it measured program results against planned performance.

Legislation to correct the problems of delay and inaction were introduced in the 94th Congress, but was not passed. FMC started to study the problem and to revise its regulations to improve rate proceedings, but it did too little, too late, and no one provided a solution to the problem. In October 1978, the Congress enacted amendments to the Intercoastal Shipping Act of 1933. This law had two primary purposes--to alter the power of FMC to suspend general rate increases or decreases in domestic offshore trades and, more importantly, to expedite the decisionmaking process of FMC in its regulation of the domestic offshore trades by requiring FMC to reach decisions within 180 days. This law became necessary when FMC did not revise its rules and regulations to process rate increases in a timely manner.

The Chairman and each Commissioner agreed that FMC could have improved rate proceedings. One Commissioner stated that at the time domestic rate proceedings might not have deserved a number one priority and the lack of staff resources precluded FMC from developing better or more timely procedures. Another Commissioner stated that FMC had not improved the rate proceedings because of poor planning.

Crisis-oriented decisionmaking

Without adequate planning, FMC has found itself in a regulatory posture which is crisis oriented and reactive, as opposed to anticipatory and preventative. Anticipating events is implicit in the planning process and could improve FMC's decisionmaking in unresolved future issues. Had long-range planning already been in existence, FMC could have better coped with issues it is now or has been faced with, such as:

--What is FMC's role in the changing technology of containerized cargo?

--What special problems arise in determining the reasonableness of rates set by controlled carriers?

--How will changing fuel prices affect the shipping industry?

FMC's inability to cope with the foregoing types of matters in a timely manner can be demonstrated by its recent handling of the increases in domestic tariffs

resulting from rising prices of fuel oil, commonly referred to as domestic bunker fuel surcharges. Early in March 1979, FMC was caught off guard when, as a result of the oil shortage crisis, it was asked to give quick approval to bunker fuel surcharge increases in the domestic offshore trades. On June 6, 1979, 3 months later, FMC published a circular letter on how these surcharges would be handled.

One reason for protracted discussions and resulting delay was that FMC does not anticipate events and prepare for them. Usually when something comes up, FMC has to expend valuable staff to research and resolve the problem "right now." A planning capability at FMC would permit it to look ahead, anticipate problems, and develop contingency plans and policies to handle problems when they occur. While a planning function may not have actually anticipated this specific oil crisis, nevertheless, it would have been its responsibility to look forward and develop contingency plans to offset future changes and uncertainty.

Ad hoc, case-by-case decisionmaking

FMC does business on a case-by-case basis. This method leads to ineffective operations because the staff does not always know the policy direction in which FMC is going. For example, the staff does not have written policies and guidelines to follow in reviewing agreements. (See app. III.) Also, FMC's delay in the decisionmaking is costly to itself and to the carriers it regulates. Proper planning would minimize these problems because broad issues would have been studied so FMC policies could be defined and the goals and objectives that FMC wants to accomplish in an area would be known.

This problem was demonstrated during our review of section 15 shipping agreements when it became apparent that there was a lack of written policies and guidelines concerning different types of section 15 shipping agreements. For example, no clear policy concerning intermodalism in shipping agreements existed. "Intermodalism" refers to the transportation of cargo by more than one method (e.g., truck and ocean liner) on the same bill of lading to its destination. Our review of shipping agreements disclosed that the seven oldest agreements pending FMC approval concerned intermodalism, and these agreements had been pending 2 years or more. The Director, Bureau of Ocean Commerce Regulation, stated that he had received five completely different recommendations from five staff analysts concerning the pending intermodal agreements. He stated that since there were no written FMC policies or guidelines in this area, he had sent all five recommendations back to the staff with comments on what he thought FMC's policy was for this type of agreement.

The need for written policies and guidelines was also recognized by the organization task force report which, in recommending the establishment of the Bureau of Ocean Commerce Regulation, also recommended that a digest of FMC decisions be available to guide staff in future cases.

CONCLUSIONS

We believe that the Chairman and the Commissioners must not only be aware of the importance of continuous and systematic planning but must make a strong commitment to its implementation within FMC. Not only must FMC establish a structure in which planning can occur, but planning must be done by staff permanently assigned to this essential management function.

FMC needs to establish and organize a staff planning function which will

- assist in developing agency goals and objectives and develop long-range, broad-based, continuous, and forward-looking plans;
- be responsible for background studies to assist in policysetting and to disseminate and monitor the changes in policies, rules, and regulations;
- be authorized to obtain long-term research and economic studies in a timely manner, and
- monitor budgets to assure they meet the overall goals and objectives, conform to established policies and priorities set by FMC, and feed back results into the planning process.

RECOMMENDATION TO THE CHAIRMAN, FMC

We recommend that the Chairman establish an office of planning to help FMC define agency goals and objectives in relation to its mission, set priorities for achieving them, formulate policies to carry out the objectives, and set performance standards to provide for measuring results so that feedback can be made into the planning process.

AGENCY COMMENTS AND OUR EVALUATION

The Chairman concurred with our recommendation. He said he was perplexed, however, with the report's assertion that FMC has no planning documents. He could envision no planning document more comprehensive or essential than

FMC's proposed "Revised Shipping Act." He also said its omission from the draft report is inexplicable.

We did not assert that FMC had no planning documents. We stated that the only planning document FMC has is the annual zero-based budget and that it is a limited part of the planning process. We have deleted the word "only" from this section of our report. (See p. 10.)

We also did not omit referring to the statutory review task force efforts to develop draft legislation to revise the foreign shipping statutes. (See p. 9.) However, we did not dwell on this point because we believe that task forces are used to solve specific problems and do not replace the need for a continuous and systematic approach to planning. Furthermore, we believe that a proposal to amend substantive law, such as FMC's Revised Shipping Act, is primarily "law reform" and it would only relate to the future "purpose or mission" part of the planning process discussed in this report. (See pp. 6 and 7.) The remaining part of the planning process should be based upon the laws as they now exist.

CHAPTER 3

MANAGEMENT INFORMATION SYSTEM NEEDED

To exercise effective planning, evaluation, and control of agency performance, the Commissioners and managers at all levels need complete, accurate, and current information to identify the resources being used to achieve the organization's objectives and to measure the progress toward them. Such information should also identify areas needing management attention and enable management to better anticipate the effects of its current decisions.

Federal Maritime Commission management primarily receives its information from monthly status reports and quarterly statistical reports, none of which contain enough decision-oriented information to measure progress and accomplishments in the various programs and activities.

Without the proper information, FMC officials cannot be sure (1) what resources are being devoted to its programs and activities, (2) how effectively such resources are contributing to program objectives, or (3) that the effects of its decisions will be in the best interests of the public, the regulated industry, and the Government.

FMC, recognizing the necessity for a management information system, recently hired a specialist to develop one. Much, however, remains to be done. In today's environment, automatic data processing (ADP) is an essential tool for management, but at FMC it has not been used as effectively as it might have been.

WHAT IS A MANAGEMENT INFORMATION SYSTEM?

There is no standard definition of a management information system, but the following one illustrates a number of its desirable qualities:

"* * * a system designed to provide selected decision oriented information needed by management to plan, control and evaluate * * * activities * * *. It is designed within a framework that emphasizes * * * performance planning, and control at all levels. It contemplates the ultimate integration of required * * * information subsystems, both financial and non-financial * * *. It involves a systematic approach toward providing information that is timely, meaningful, and readily accessible. The subsystems will satisfy both the routine and special reporting

needs of management efficiently and effectively to plan and control the acquisition, use, and disposition of * * * resources.

"A successful management information system must consider the current and future management information needs of the administrative, financial, * * * production, operating, and research functions. It will have the capacity to provide * * * regulatory information required for evaluating * * * objectives, long-range planning * * * and short-range planning * * *." 1/

An integrated information system can give managers at different levels decision-oriented information designed to measure the progress of their programs and activities in meeting the organization's goals and objectives, and how effectively, efficiently, and economically resources--such as money, people, and equipment--are being used.

Management information reports tend to be derived from certain basic data sources: "standards" in the form of quantified plans and budgets (for goals and objectives), "actuals" in the form of accounting data (for the cost of and what resources are being employed), and inventory-production reporting systems (for what was accomplished and work in process and on order).

For an information system to be useful to managers, accurate information from the above sources needs to be systematically accumulated and the financial and non-financial information integrated in such a way that each manager knows the quantified goals, the budgeted costs, the costs to date, the hours and resources used in producing the work, and the amount of work produced. The reports should support management by exception by readily identifying variances from plans, with an indication of the causes for the variation, to minimize the time the manager spends in determining what the problems are and what corrective actions are needed. Historical data from the same sources is needed for measuring progress over the longer term and in detecting future trends. The reports, containing current vital facts, should be available in time for managers to take corrective action before serious problems really develop.

1/William H. Gruber and John S. Niles "The New Management," (McGraw-Hill Book Company, 1976), pp. 133-134.

INFORMATION NOT ADEQUATE
FOR MANAGEMENT NEEDS

Reports on performance received by the Chairman and Managing Director were not adequate for their use in planning, controlling, and evaluating the activities of the bureaus and offices. The principal reports on performance were monthly status reports prepared by only three groups and quarterly statistical workload reports prepared by most bureaus and offices. These reports did not contain enough decision-oriented information to measure progress and accomplishments in programs and activities and many of the reports did not include information on all the work performed. Not only was the information not reported, it was not accumulated within FMC for use at the bureau and office level either.

Financial reports were oriented to the budget structure rather than to a program and activity structure and none of the performance and financial reports were integrated into an overall management information reporting system.

Lack of decision-oriented information

The monthly status reports prepared by the Offices of the Secretary, the Administrative Law Judges, and the Office of Agreements contained summaries and detailed listings of each case--formal proceeding, complaint or investigation, or agreement pending. The summaries consist of "cases" categorized in particular stages of progress toward completion, followed by an identifying number for each case in the category and the total number in progress at the end of the month.

For example, a monthly Administrative Law Judge report included the following in its nine category summary:

Pending prehearing conference (79-27, 79-67, 79-68, 79-69)	4
Pending briefs (76-22, ***, 79-55).	8
Pending Judge's decision: Formal (74-15, 78-14, ***, 79-62)	9

This summary is followed by a detailed list containing each case in sequence by its identifying number, date of filing, various dates of significant events, and a brief statement as to the status of each case at the end of each month.

These monthly reports provide useful historical information on each pending case, but they do not contain decision-oriented information, such as predetermined goals or standards for completing each case (that is, 200 hours or 10 months) and estimated target dates for the completion of each case. Management could use such information to compare with actual performance and take whatever corrective action is indicated.

The other offices and bureaus' quarterly statistical workload reports, in general, tabulated the kinds of cases worked on (that is, agreements, investigations, and proceedings) by (1) number on hand at the beginning of the quarter, (2) number received during the quarter, (3) number completed during the quarter, and (4) number pending at the end of the quarter. For example, a Bureau of Hearing Counsel report included the following:

	<u>Pending at beginning</u>	<u>Received</u>	<u>Completed</u>	<u>Pending at end</u>
Rulemaking	0	1	0	1
Formal complaint	19	1	1	19
Domestic rate	10	1	5	6
Section 15 agreements	11	2	4	9

These quarterly reports also were essentially historical and lacked much information needed for management purposes. They did not include, for example, predetermined workload data, such as that contained in FMC's annual ZBB and actual hours spent or costs 1/ incurred in performing completed and pending work.

Also, many of the reports did not contain all the work for which an office was responsible. For example, neither the Office of Freight Forwarders, Bureau of Certification and Licensing, nor the Bureau of Enforcement recorded and reported the total number of licensed freight forwarders on whom compliance reviews had not been made for over 3 years, even though this was their informally established goal. We estimate that over 700 licensees had not been scheduled for

1/FMC does not collect information on how staff-hours are spent or the costs incurred on programs and activities. The accounting system accumulates and reports payroll costs by organizational unit.

a routine compliance review for over 3 years--a sizable amount of work to not be considered in setting office schedules and priorities.

Not all work was reported

Our review of the various performance reports and work performed in the bureaus and offices revealed that not all the work being performed was being reported. Under such circumstances management cannot accurately assess an activity's performance. Unreported information included the following.

1. Review of existing conference agreements for compliance with revised FMC rules--The Office of Agreements initially received no response from 43 of 97 conferences required to submit amendments providing for independent policing of each conference with three or more members. Because its monthly report was geared only to listing amendments that had been received, the Office did not report on its review and followup work on the 43 nonrespondents.
2. Changes not requiring official FMC action--The Bureau of Certification and Licensing's three offices did not record or report the number of bond changes processed if the applicant's license or certificate was unaffected, even though the staff had to review hundreds of bond changes a year to verify that FMC requirements were still met.
3. Other activities performed in accordance with agency objectives--The Bureau of Enforcement's district offices make numerous public relations contacts each month. However, they do not report these contacts because there is no requirement to do so. The Chairman recently expressed an interest in such contacts.
4. Reports were not submitted for all organizational units--The entire activities of three of the four offices in the Bureau of Industry Economics were excluded from both monthly and quarterly reports to the Managing Director and Chairman, although the Bureau Director received periodic reports from those offices.

DECISIONS MADE WITHOUT
COMPLETE INFORMATION

Managing requires making decisions with less than complete information because all needed information is rarely available to managers at the time of decision-making. But that does not mean they should reach decisions without considering all basic and readily available information. The more complete information management has, the more assurance there is that its decisions are made in the best interests of all concerned. Consider the following two decisions--made without complete information--which created or increased the backlog of work.

1. In April 1978 the Commissioners ordered conferences consisting of three or more liners in the foreign trade to submit amendments to their agreements, providing for policing of each conference by an independent body. At the time the original decision was made there were about 90 conference amendments or agreements pending, representing a relatively constant backlog of about 6 months work, but the Commissioners do not normally receive information on the pending workload. By February 1979, the backlog had increased to about 125 pending agreements primarily because of the filing of independent policing amendments.
2. The workload of the foreign tariff examiners was also adversely affected when the Bureau Director instituted new examination procedures and controls at the same time (1) the tariff review function was being organizationally and physically relocated and (2) the tariff review staff was trying to process the thousands of tariffs pages which the Commissioners had ordered foreign conferences and carriers to refile. The new procedures and controls were instituted because management did not know the overall workload of this group.

More complete information might not have altered the foregoing decisions, but we believe the method or timing of implementation might have been different. In both instances a management information system would have given the decisionmakers more complete information to consider in their deliberations. Thus, they would have been able to

- better anticipate the impact of increased workload on the affected office by comparing its actual accomplishments, performance, and progress with its objectives, standards, and target dates;

- assess the full costs of resources needed and the additional time necessary to do the increased work; and
- consider the most cost effective approach to the problem, such as giving the new amendments priority processing, phasing in the new requirements, or other alternatives.

Use of more complete information would have provided greater assurance to the Commission that the effects of its decisions--to live with increased backlogs--were in the best interests of the public, the regulated industry, and the Government.

MANAGEMENT ACTION TO DEVELOP AN INFORMATION SYSTEM

In August 1978, FMC advised the Chairman, Subcommittee on Merchant Marine, House Committee on Merchant Marine and Fisheries, that it planned to merge its Office of Budget and Finance with its management analysis staff to create a new Office of Budget and Program Analysis. The new office's initial goal would be to develop a management information system. The system was to assure that management had adequate information on a recurring basis to identify trends and facilitate proper, systematic planning. The system was also to focus on internal administration, and it was expected to interface with other information that would assist in identifying industry trends. The new office was established in October 1978.

FMC planned to complete the design and implementation of an effective management information system in fiscal year 1980. However, due to budget limitations and personnel requirements, it was not until late in fiscal year 1979 that FMC obtained an employee to begin analyzing FMC's management information needs. The Director, Office of Budget and Program Analysis, told us that the analyst has begun by looking into FMC's financial information needs and reporting capabilities and learning the organization by serving on the organizational task force. He also told us that implementation of a fully integrated management information system is not expected until late in fiscal year 1981. FMC has contracted with the General Services Administration to obtain a study of the ADP processing needs of FMC.

The Director told us that much needs to be done before an effective integrated management information system can be implemented. For example, all FMC's tasks need to be

identified and performance goals need to be quantified for both the individuals and organizational elements doing the tasks. Documents need to be designed to capture the information, and arrangements need to be made to accumulate it into useful reports whose formats also have to be designed.

AUTOMATIC DATA PROCESSING--AN
ESSENTIAL INFORMATION TOOL--
NEEDS IMPROVEMENT

Automatic data processing is an essential information tool for management planning, evaluation, and control. Because ADP is essential to a management information system, we also looked into its operations at FMC. For management to receive current and timely information, many problems need to be corrected, including:

1. No long-range planning for ADP.

Developing a comprehensive long-range plan is a recognized method to (1) use resources efficiently and effectively, (2) assure that these resources support agency missions and objectives, and (3) commit top management to action. The importance of ADP planning is emphasized in OMB's Circular A-71, "Responsibilities for the Administration and Management of Automatic Data Processing Activities."

The Office of Data Systems, Bureau of Industry Economics, responsible for long-range planning with respect to computer hardware and software, should direct this effort. However, the Office Chief and Bureau Director stated that because of a heavy workload they have too little time for planning.

2. Computer facilities need upgrading.

The advanced technology of modern computers has resulted in reduced operating costs. According to the study by the President's Federal Automatic Data Processing Reorganization Project, computer memory costs have been declining at a rate of 44 percent a year, processing costs have been declining at a rate of 29 percent a year, and communications costs have been declining at a rate of 19 percent a year. Studies show that unit operating costs of obsolete equipment usually exceed the cost of operating new equipment.

The computer system used by the Office is based on 10-year-old technology and does not have modern, advanced capabilities that would permit it to provide better and more

timely information to FMC users. Users cannot communicate directly with the computer system, the computer can process only one batch of data at a time, and punched cards are used as the source to enter data into the computer. All these features slow the Office's response time and limit the system's usefulness.

3. Need for improved communication and cooperation.

User involvement in management and planning is also necessary to insure satisfaction of users' needs. Users and computer specialists should work with top management to define requirements; agree on strategies, policies, objectives, and goals; and develop plans to economically meet those requirements and objectives.

The office responsible for ADP operations was experiencing problems of communication and cooperation with other FMC offices. The Office Chief told us that most bureau and Commission staff were inadequately knowledgeable about what the computer system could accomplish. He cited, for example, special requests beyond the capabilities of the computer system and data bases. He said that some educational programs had been conducted, but they have clearly not been successful.

4. Staffing limitations.

More staff may be needed to edit, analyze, and transcribe data. The Bureau Director informed us that because of the lack of staff, he devotes much of his time to data editing and analysis. This leaves him less time for managerial responsibilities, especially long-range planning. Furthermore, staff shortages cause delays in output.

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An ADP steering committee is an acceptable method for reviewing and evaluating a management system for computer resources. Specifically, the committee should review and recommend (1) policies for the effective use of computer resources throughout the agency and (2) measurable objectives so that progress toward their achievement can be measured. The committee should be permanent and should have a written charter to formally establish its authority and responsibility in the ADP environment.

CONCLUSIONS

FMC does not have a management information system with which to plan, evaluate, and control its performance. It

needs one in order to effectively manage its resources and provide greater assurance that its decisions are made in the best interests of all affected parties. Recognizing this need FMC has hired an analyst to develop a system. It has also contracted for a study of its needs for automated information.

In reality, FMC is starting at "ground zero" to develop its management information system. This will require considerable time of office and bureau directors and their staffs to identify and quantify information needed for the system and the resulting reports--especially to complete it by the end of fiscal year 1981.

ADP is an essential management tool, particularly in management information systems, but some problems with FMC's ADP capabilities need to be solved before they can be used most effectively. An ADP steering committee composed of top management, users, and data processing analysts could be effectively used to review and evaluate computer resources.

RECOMMENDATION TO THE CHAIRMAN, FMC

We recommend that the Chairman establish an ADP steering committee to provide direction and leadership in acquiring, managing, and using ADP equipment and services.

AGENCY COMMENT

The Chairman concurred with our recommendation. He said that the makeup of the ADP steering committee has already been finalized.

CHAPTER 4

AUDITING NEEDS TO BE PERFORMED AND INVESTIGATING ACTIVITIES EXPANDED

An important mechanism for providing management officials with information as a basis for management action is an independent review of operations, methods, systems, procedures, and practices. Independent reviews, such as internal audit, external audit, and investigations, are needed. These functions would supplement and reinforce other management controls which, for practical reasons, may not contain all the desired automatic checks and balances.

The Federal Maritime Commission management is not being given an independent analysis of FMC accounting, financial, and other operations because the agency does not have any auditors performing internal auditing. Further, while FMC was performing external audits and investigations, we found that some types of external audits and investigations were not being performed. FMC needs to establish an independent internal auditing function reporting directly to the Chairman and expand its external audit and investigating activities.

THE IMPORTANCE OF AUDITING

Auditing is an important management mechanism. Its importance has been

- defined in management courses;
- recognized by the Congress in the Budget and Accounting Procedures Act of 1950 (64 Stat. 832);
- enhanced by the Congress in the Inspector General Act of 1978 (Public Law 95-452) (5 U.S.C. app.), enacted October 12, 1978; and
- extended by the Office of Management and Budget's fight against waste, fraud, and error in Government programs.

Auditing, in its broadest sense, is the regular and independent appraisal of the accounting, financial, and other operations of an organization. While auditing is sometimes limited to the examination of accounts, its most useful aspect involves the appraisal of operations generally weighing actual results in the light of planned results. Thus,

auditors, in addition to assuring themselves and management that accounts reflect the facts, should also appraise policies, procedures, use of authority, quality of management, effectiveness of methods, and other phases of operations.

The Congress recognized the role and usefulness of internal auditing when it passed the Budget and Accounting Procedures Act of 1950. The act placed responsibility for the institution of this element of internal control on top agency management. ^{1/} Further, the House Committee on Government Operations has taken an active interest in this function in the Federal Government, urging all agencies to adopt effective internal audit systems.

The Congress, in the Inspector General Act of 1978, provided for the establishment of Offices of Inspector General in major departments and agencies. The purpose of this act in part was to create independent and objective units to

- conduct and supervise audits and investigations;
- provide leadership and coordination; recommend policies for activities designed to promote economy, efficiency, and effectiveness in administration of programs and operations; and to prevent and detect fraud and abuse in such programs and operations; and
- provide a means for keeping the agency head informed about the deficiencies relating to the administration of such programs and the necessity for and progress of corrective action.

A January 3, 1979, OMB memorandum asked each agency to take steps to eliminate waste, fraud, and error in Government programs. The memorandum states that the President has placed the highest priority on eliminating and preventing fraud, waste, and inefficiency in the use of Federal funds and that the President wished that significant features of the Inspector General programs be extended to other Federal agencies.

^{1/}A more detailed discussion of these matters is contained in our booklets entitled "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" (1972) and "Internal Auditing in Federal Agencies" (1974).

We identified those organizational units within FMC that had responsibilities for performing audits and investigations. Although we found no units performing internal audits, three organizational units had responsibilities for performing external audits and investigations.

NO INTERNAL AUDITING

As pointed out previously, auditing is to be the responsibility of top agency management as required by law. FMC, however, has no internal auditing unit to provide top management with an independent analysis of the agency's operations. FMC has not conducted any program or financial audits.

In response to the January 3, 1979, OMB memorandum, FMC did appoint an individual within the Bureau of Enforcement to work part time to prevent fraud, waste, and abuse because FMC had no internal audit staff. As of September 1979, no audits had been undertaken even though FMC had advised OMB it was planning to audit the controls over the cash management system.

We noted certain financial management weaknesses, such as no centralized control for the collection of funds, no central record of accounts receivable, and untimely deposits of cash. For example, on May 11, 1979, we examined FMC's accounts and found seven undeposited checks totaling \$211,516 in FMC's safe. FMC stamped these checks as received from April 18, 1979, to May 7, 1979. The lack of controls over cash should not occur and may not have occurred if FMC had an established internal audit unit to make independent reviews of FMC's operations. The Chairman told us that a cash management system was installed on August 15, 1979.

EXTERNAL AUDITING AND INVESTIGATIONS NEED TO BE EXPANDED

Units responsible for external audits and investigations are the Bureau of Enforcement, the Office of Financial Analysis, and the Office of Audits and Programs. Activities of these offices are discussed below.

Bureau of Enforcement

The Bureau of Enforcement had 71 staff positions in fiscal year 1978 (20 percent of FMC's total staff) and completed 901 investigations. The Bureau has five district offices, located in New York; New Orleans; San Francisco; Chicago; and Hato Rey, Puerto Rico. The district offices

and their suboffices, in addition to conducting investigations, serve as liaisons between the industry and public and FMC headquarters; however, the primary program is investigating into violations of the shipping statutes.

The Bureau of Enforcement has the responsibility to develop and administer programs for

- investigating and documenting violations of the shipping statutes by common carriers by water, freight forwarders, terminal operators, importers, and others subject to the act;
- investigating licensed freight forwarders for compliance with regulatory requirements;
- auditing passenger vessel operations for the financial protection of cruise passengers;
- helping the Bureau of Hearing Counsel in preparing for formal proceedings and the General Counsel in preparing for actions in Federal Court; and
- conducting studies and surveys for use in enforcement program development or program evaluation.

The Bureau of Enforcement carries out external audits and investigations. Most of the Bureau's investigations in fiscal years 1978 and 1979--in accordance with established priorities--were rebating investigations, reviews of new freight forwarders and passenger cruise audits. Little other investigative work was done regularly. However, if allegations were received on such matters as malpractices by existing freight forwarders, misdescriptions of commodities by shippers, or misweighings investigations were performed.

The Bureau Director said that very little work has been done for the Bureau of Ocean Commerce Regulation in verifying that only approved tariffs are being used by ocean liner firms and no work had been done to determine that such firms are operating in accordance with FMC-approved shipping agreements. He said he did not know who would be responsible for auditing the activities of the new independent policing bodies. Independent policing bodies were recently established as neutral entities to monitor conference members to assure that member shipping lines were following their agreements.

Office of Financial Analysis

This Office, within the Bureau of Industry Economics, has the responsibility of auditing shipping lines' financial statements to determine if the rates charged by domestic carriers are appropriate. However, this Office does not carry out these audits. We were told that they make desk reviews of the statements and use them along with other supporting documents supplied by the carriers, when the carriers file for rate increases. The Office Chief said that while FMC could not audit the books and records of all carriers, he felt that the FMC should make some test checks. He stated that lack of staff is the main reason for not doing some external auditing. Furthermore, he said that staff resources are even tighter since the workload was increased by the recent enactments of the 1978 amendments to the Intercoastal Shipping Act of 1933 and the Ocean Shipping Act of 1978.

Office of Audits and Programs

Within the Bureau of Ocean Commerce Regulation, FMC established an Office of Audits and Programs in January 1979. Some of its duties were to make external reviews of approved shipping agreements and tariffs. This Office, which has only Bureau-wide responsibility, was not able to undertake its stated mission because the Office had been used to implement the recently passed Ocean Shipping Act of 1978 and to perform numerous other "special projects." Only recently has the Office begun to plan to audit shipping agreements. The Office began its first audit in September 1979.

CONCLUSIONS

We believe that FMC should establish an internal audit office and expand the scope of work of the Bureau of Enforcement to consider all FMC external audit and investigative activities.

Each audit office should develop plans which will give periodic and systematic coverage to a broad range of audit and investigative activities and establish priorities to best accomplish these tasks with available resources. The internal audit plan should include audits of ongoing program operations and financial and other management activities. The external audit and investigative plan should include not only that work now being accomplished, but also (1) audits and investigations not now being covered due to higher priority work and (2) audits needed by other FMC offices.

AGENCY COMMENTS AND OUR EVALUATION

The Chairman did not agree with our proposal that FMC develop an independent audit capability. He did not believe that such a capability was practical for an agency of the size and character of FMC, nor did he believe that one was necessary because of the "built-in" audit capability of FMC's quasi-judicial process.

The Chairman's comments appear to ignore the spirit, if not the actual intent, of legislation requiring an internal audit capability. (See pp. 26 and 27.) While it may be true that the quasi-judicial process does have some built-in control features, the principal function of this process is not to provide management with regular and independent appraisals of accounting, financial, and internal operations. If the Chairman's position is valid, then the internal audit organizations existing in other quasi-judicial bodies would also not be needed.

We believe that the size of an organization may have a bearing on the size of an internal audit staff, but not on the fact that a staff is needed. Further, the types of findings discussed throughout this report and the fact that a Task Force on Commission Organization was used to look into many of the same areas normally covered by internal auditors, provide ample evidence of the need for an independent internal audit unit within FMC.

RECOMMENDATIONS TO THE CHAIRMAN, FMC

We recommend that the Chairman establish an independent internal audit organization reporting directly to him. This independent audit organization should be responsible for conducting audits of programs and operations to promote economy, efficiency, and effectiveness, and to prevent or eliminate fraud and abuse.

We also recommend that all external audit and investigative activities be planned, coordinated, and performed by the existing Bureau of Enforcement.

CHAPTER 5

STAFFING NEEDS AND TRAINING REQUIREMENTS

SHOULD BE ASSESSED

A sufficient number of adequately trained staff are necessary for any organization to carry out its mission in the most effective, efficient, and economical manner. Implicit with the assignment of additional duties is the understanding that additional staff may be needed. When agencies are not given additional needed staff, they are forced to seek improvements in their performance. Improving performance is, in itself, a desirable objective. Over the long run, however, steadily increasing workloads without commensurate staffing eventually dilutes existing staff resources until the agency reaches a point of inefficiency, ineffectiveness, and uneconomical operation and its mission becomes impaired.

The Federal Maritime Commission has had difficulty in obtaining additional staff to carry out its expanded regulatory duties. While FMC has been authorized some additional staff, it is still faced with backlogs, delays in completing work, and the inability to perform essential work. And, unless personnel can be shifted from other activities, it will not have staff to carry out the essential management functions discussed earlier in this report. FMC should carefully and objectively determine its specific staffing requirements--both quantitatively and qualitatively--in order to convincingly demonstrate and support its requests for staffing needs.

ADDITIONAL REGULATORY DUTIES UNDERTAKEN WITHOUT COMMENSURATE STAFF ADVERSELY AFFECTED EXISTING WORK

We found numerous instances where requirements were increased without additional staff. As a result

- the backlog of pending agreements increased,
- essential reviews of existing agreements were deferred,
- the review of tariffs were held to an absolute minimum,
- compliance with the recertification of vessel owner/operator financial responsibility for oil pollution was prolonged, and

--the handling of small claims became unwieldy.

While these examples, discussed in greater detail below, may not, in and of themselves, provide conclusive evidence of understaffing, they do provide ample evidence to support an aggregate understaffing problem within FMC.

Backlog of pending agreements increased

The reasons for this backlog included the lack of written policies and guidance to both external parties and internal staff and the need for staff training. (See our March 21, 1979, letter to the Chairman in app. III, p. 53.) The backlog also increased because the workload increased, but not the staff.

Ocean liner firms, which are members of a conference, are granted immunity from antitrust laws when FMC approves their agreements and related amendments. The Bureau of Ocean Commerce Regulation's Office of Agreements reviews and analyzes all conference agreements filed in accordance with the Shipping Act of 1916 and FMC's regulations.

FMC decided in 1978 to require all conferences with three or more members to file amendments to their shipping agreements providing for independent policing by a neutral body. Previously, a conference could police itself and had to investigate only specific complaints received. Initially the new amendments were to be effective by July 1, 1978, but the date was delayed twice by FMC to January 1, 1979. Most conferences waited until late December or early January to file amendments. Some that already had independent policing bodies did not file the required amendment, some ignored the requirement entirely, and others requested exemptions.

The Office of Agreements, which was responsible for reviewing the independent policing amendments, also had about 95 other agreements or amendments pending on November 30, 1978--about 6 months of work based on fiscal year 1978 completions. By February 1979, the agreements and amendments pending, including the independent policing amendments, totaled about 125, a 32-percent increase in the workload in 2 months. An additional workload was created by the legal actions which FMC had to take against those conferences that did not comply and did not file the independent policing amendments. No additional staffing, however, was provided.

Essential reviews were deferred

The regular and essential work of the Office of Audits and Programs, Bureau of Ocean Commerce Regulation, had to be

deferred in order to implement numerous special projects. In particular, the implementation of the Ocean Shipping Act of 1978 which gave FMC new regulatory authority over the rates charged by "controlled carriers" operating in U.S. foreign commerce.

Controlled carriers are common carriers by water whose operating assets are directly or indirectly owned or controlled by foreign governments not entitled to receive most-favored-nation treatment. The law is based on the premise that such vessels are not always operated under the same profit motive as privately owned and controlled vessels. The law authorizes FMC to suspend and disapprove, after a hearing, rates, charges, classifications, rules, or regulations which a controlled carrier fails to demonstrate to be just and reasonable. The law was effective 30 days after its approval on October 18, 1978.

In November 1978 FMC requested from OMB 16 positions and \$150,000 to begin implementing the law in fiscal year 1979. OMB denied the request.

Because of the heavy workloads in the Offices of Agreements and Tariffs, the Director, Bureau of Ocean Commerce Regulation, assigned implementation of the new law to the Office of Audits and Programs. In addition to implementing the new law, the Office was assigned special projects, such as giving training classes to the transportation analysts, automating pending agreements data to produce new management information reports, and coordinating the Bureau's fiscal year 1981 budget requests.

Part of the Office of Audits and Programs' mission is to review existing agreements and related tariffs for conformance with each other and FMC's policies. However, implementation of this essential mission was deferred during most of our review because of the additional workload imposed by the new law and other projects.

Minimal review of tariff filings

The minimal review of tariffs may or may not be sufficient for FMC to fulfill its regulatory duties, but apparently under normal workloads, FMC will be able to perform only a minimum review with its existing staff.

In the foreign trade, ocean common carriers are required to file their tariffs with FMC which is to insure that the tariffs comply with the shipping laws. Tariffs somewhat resemble catalogs and individual filings may involve many pages. There are several hundred thousand tariff pages

on file. Each page is examined for form, to make certain it is not to go into effect on less than 30 days' notice, and for compliance with numerous other requirements. Tariffs can be rejected, for example, for form or improper notice. Also, foreign tariff rates can be reviewed for reasonableness and suspended under certain circumstances.

Many events affected the tariff review function in a short period of time and forced FMC to reduce its desired scope of examination in order to cope with the backlogs of unfiled tariffs. At one time this backlog was as much as 5 weeks old.

The events which impacted on the foreign tariff review were:

1. New examination procedures and controls.

In late 1978 the foreign tariff staff started making a complete examination of each tariff filing in accordance with a newly issued detailed handbook of instructions, filling out forms on what had and had not been examined, and making an exact count of the number of pages in each filing. These changes were made because management was seeking a better measure of staff production in quality and quantity as well as an accurate count of the overall workload. Management had found during an earlier study that the staff was estimating the number of pages being filed, the staff was not doing a complete examination of each filing, and errors were being found in the tariffs that had already been "examined."

2. New standardized tariff formats.

FMC decided that all foreign carriers and foreign conferences should refile their tariffs in a new standardized format between January 1, 1978, and January 1, 1979. For the most part, however, carriers and conferences waited until near the final deadline to file. This delay also contributed to the backlog.

3. Reorganization of the tariff review function.

In mid-January 1979, the reorganization of the Office of Tariffs went into full effect. Office staffs were shifted organizationally and physically relocated. It was also decided to reorganize the tariff libraries so tariffs would be filed alphabetically instead of under the old coded system. The physical reorganization of the libraries also created a workload and at times hindered the locating of old

tariffs needed in order to compare with the new tariff filings being examined. While the reorganization separated clerical and analytical functions, the backlog of tariffs to be examined did not improve.

4. Increase in tariff filings for bunker fuel surcharges.

In addition to the chaos resulting from the more complete examination requirements, the refilings, and the reorganization the increasing price of bunker fuel prompted carriers to file tariffs for fuel surcharges. These increased filings also added to the backlog.

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To handle this tariff backlog, the FMC paid overtime and reduced the examination requirements to a minimum. While all of the internal changes were administratively desirable, the peak workload they created was not. The Office apparently does not have enough staff to do the complete examinations it had originally intended, even when the workload is normal. On the other hand, the minimal review may be all that is necessary. FMC now has an accurate count of how many pages will be subject to the minimal review and should be able to ascertain the staff needed to make whatever degree of examinations is considered desirable.

Compliance with recertification prolonged

Because the Office of Water Pollution Responsibility, Bureau of Certification and Licensing, did not receive additional staff to meet the requirements of the Clean Water Act of 1977, it had to prolong its recertification of vessels.

For several years the Office has been responsible for issuing certificates to owners/operators of certain vessels after verifying they had the required amounts of insurance/bonding to cover the cost of cleaning up oil spills. Ships not able to show valid certificates can be detained in port by the U.S. Coast Guard, U.S. Customs, or Panama Canal Company enforcement officials. Until the 1977 amendments were passed, a vessel's certificate was good indefinitely so long as the owners/operators did not change and the insurance/bond remained in effect. Under current regulations, a certificate must be reissued every 3 years.

The Clean Water Act of 1977 revised the law to require recertification of vessel owners/operators for oil spills and made them subject to increased financial liability. The law

also provided that vessels not be required to establish any evidence of financial responsibility for such increased amounts before October 1, 1978.

FMC requested 14 new positions and \$170,000 from OMB in April 1978 to implement the law since an estimated 26,000 vessels needed to be recertified under the 1977 law. OMB denied the entire request.

To recertify vessels for a higher amount of financial responsibility for oil pollution, FMC took an alternative approach to the immediate issuance of new certificates. FMC authorized the 26,000 vessels certified under the old laws to continue to use their old FMC certificates until new ones could be issued, if the owners/operators provided evidence of insurance for the new amounts by October 1, 1978. FMC authorized the insurers to issue "blanket coverage" riders to the existing policies to minimize that portion of the paperwork. FMC then printed, for the use of enforcement officials, an ADP listing "grandfathering" about 24,000 previously certified vessels whose owners/operators filed by October, 1978 and that met new higher issuance requirements. 1/ These 24,000 vessels owner/operators were then given until March 1, 1979, to submit new applications and fees for the new certificates, in order to keep their old certificates in effect until FMC issued the new ones.

By the March deadline, applications and fees for about 6,000 vessels had not been submitted. 1/ Therefore, the Office had about 18,000 vessels to recertify. From October 1, 1978, through March 1979, the Office had processed 8,000 certificates and had about 10,000 applications in the backlog to provide new certificates after the March filing deadline.

Small claims cases needed attention

Small claims were not being adjudicated fast enough because this work was given less priority than regular duties. In April 1979, FMC had 16 "settlement officers" responsible for 183 pending claims. The earliest case, dated July 14, 1975, was almost 4 years old.

1/ Those who did not meet the deadlines lost the advantages of continuous coverage under the old certificates and would have to file new applications if they wished to enter U.S. ports.

The small claims procedures, adopted by FMC in May 1967, were to provide for adjudicating of shippers' claims of \$5,000 or less against common carriers. Claims are adjudicated with consent of the parties and without formal hearings. In October 1972, FMC ordered that employees, designated as "settlement officers," were to be substituted for Administrative Law Judges for the purpose of resolving disputes under the informal small claims procedures. Settlement officers' decisions are subject to review by FMC, but the parties to the dispute have no opportunity to take exception to the decisions.

Small claims are assigned by FMC's Secretary as "other duties" to designated settlement officers. These individuals have regular assigned duties and responsibilities in tariffs, agreements, management, or other areas. No one is assigned small claims reviews as his or her major responsibility.

The Secretary, in an April 24, 1979, memorandum, stated that the 16 designated settlement officers were not handling "the ever-increasing amount of claims adequately." The Secretary proposed that 35 more employees be designated as settlement officers. Further, he stated that because of the recent FMC decision requiring carriers to inform shippers of their rights to file claims, that the number of small claims likely will be increased even more.

FMC was trying to solve a problem by implementing this short-term program and assigning these small claims as other duties to more people. In our opinion, this will not solve the delays in the long term, especially if more claims actually result from FMC's recent decision. Leaving the small claims to be adjudicated on a regular basis, by over 50 employees working part time on them, does not seem to be the best way to improve FMC's performance. At one time, this might have been the best way to handle the small claims, however, FMC should now consider using a separate staff for small claims.

ESSENTIAL MANAGEMENT FUNCTIONS ARE NOT PERFORMED

Other work not being performed included the essential management functions discussed in chapters 2, 3, and 4. No specific staff positions were available or requested for planning and internal auditing, but one position had been authorized and filled in July 1979 to begin developing a management information system.

KEY VACANCY NEEDS TO BE FILLED

The Managing Director is responsible for the overall management and administration of FMC. He has an Assistant for Consumer Affairs and an assistant who handles special projects and who has been heavily involved in coordinating the work of the Task Force on Commission Organization. A key vacancy--that of Deputy Managing Director--has existed since October 1978. In the opinion of two Bureau directors and two other agency officials, this vacancy has contributed to delays in processing work through the Office of the Managing Director. (See pp. 47 and 48.)

A number of decisions are approved by the Managing Director each month under "delegations of authority" from the Commissioners. The Managing Director also reviews and approves all Bureaus' recommendations to the Commissioners, coordinates comments by the General Counsel on those recommendations, and oversees the administrative functions such as personnel, budget, finance, and office services. In addition to daily recurring duties, he is a member of two task forces, a committee, and two ad hoc groups; and has participated in five efforts to develop regulations and position papers.

The Managing Director told us he was leaving the Deputy position vacant until he received the Task Force on Commission Organization's report. Then he would fashion the Deputy's duties to comply with its recommendations and to complement his own qualifications.

He has informed us that a backlog no longer exists in his Office. The potential still exists, however, as the Bureau of Ocean Commerce Regulation has the highest number of agreements pending review and approval in the history of FMC. Filling the Deputy Managing Director's position should relieve the Managing Director of some of his current duties, keep delays to a minimum, and improve the effectiveness of FMC's work.

ATTEMPTS TO OBTAIN MORE STAFF

FMC's attempts to obtain more staff have been unsuccessful for the most part in spite of the increasing work assigned. Between fiscal years 1975 and 1978, OMB did not grant any FMC requests for additional staff. However, the Congress gave FMC 29 positions for fiscal year 1978--3 to set up a Great Lakes district office and 26 to provide for additional investigative and other personnel to enable FMC to conduct investigations and prosecute parties found to be practicing illegal rebating.

For fiscal year 1979, FMC asked OMB for 24 more positions, OMB permitted six, and the Congress provided funds for 9--3 to set up a Hawaiian district office, 5 for water pollution certification responsibilities, and 1 for development of a management information system.

For fiscal year 1980, FMC requested 20 positions and OMB allowed 5. In May 1979 the FMC Chairman appealed to the Chairman, Senate Appropriations Committee, a proposed reduction by the House committee to 3 positions. He stated:

"In short, our three requests [regular and two supplementals] have totaled 50 additional positions and \$635,000 in order to discharge the additional responsibilities imposed by four new laws enacted within the past year and a half.

"These initial requests, based upon our best estimate of needs, were reduced to a mere five positions and \$81,000."

The laws he referred to were the Ocean Shipping Act of 1978, the 1978 amendments to the Intercoastal Shipping Act of 1933, the Clean Water Act of 1977, and the Outer Continental Shelf Lands Act Amendments of 1978.

Earlier in this chapter we related FMC's unsuccessful efforts to obtain additional staff and funds in supplemental appropriation requests.

NEED FOR MANAGEMENT TRAINING

Being a good manager and supervisor means more than being the best technician. It means knowing and applying the basic principles of management to achieve the organizational goals in the most efficient, effective, and economical manner. The other chapters in this report concerning planning, management information systems, and communication indicate the need for management training in FMC.

Some other specific indicators of the need for management training included the following:

- Many managers did not recognize the importance of continuous, systematic planning.
- Many were not knowledgeable of how information systems could help them manage, and how ADP could provide current, useful data.

- Some managers were not giving their technical staffs current information on topics of general concern until after we reported that the analysts had complained about lack of knowledge of FMC policy on current issues.
- The amount of managerial/supervisory training listed in personnel records for one group of managers/supervisors we reviewed varied from 0 to 27 days and for many that training had been received 5 or more years previously.
- Manpower and training needs had not been assessed recently, although the Office of Personnel plans to do so.

CONCLUSIONS

FMC may not have enough qualified staff to carry out its regular, basic duties and take on additional work assigned by law and regulation. Attempts to absorb additional work with existing staff has resulted in increased backlogs and delays. Also existing staff needs management training.

Earlier in this report we recommended that FMC establish new planning and internal auditing functions. Staff will be needed for these new functions and for the vacant Deputy Managing Director's position. Unless personnel can be shifted from other activities, FMC will not have staff available to carry out these essential management functions.

FMC needs to carefully and objectively determine its specific staffing requirements--both quantitatively and qualitatively--to convincingly demonstrate and support its requests for staffing needs. Doing so will place FMC in a positive position to request and justify its staff requests to OMB and the Congress.

RECOMMENDATIONS TO THE CHAIRMAN, FMC

We recommend that the Chairman direct the Office of Personnel to undertake a Commission-wide study to assess its staffing needs and training requirements by:

- Establishing a work force planning program, linked to overall organizational planning, which will coordinate bureau efforts to forecast personnel needs.

--Initiating a formal manpower utilization program to systematically examine the effectiveness of professional staff utilization throughout the agency to insure the most economical and efficient utilization of staff.

--Assessing training needs and evaluating the training program periodically.

AGENCY COMMENTS AND OUR EVALUATION

The Chairman concurred with our recommendations. He agreed that additional staff training is desirable and said they are starting such a program. He was pleased that we concurred in the need for additional staff resources but was perplexed over how we can emphasize staffing deficiencies without recommending areas in which additional staff are needed.

To identify specific staffing deficiencies is one matter. To determine whether additional staffing is actually needed is another matter which involves--as we have recommended and as the Chairman has agreed--a systematic examination of professional staff use throughout the agency. This will enable FMC to determine whether existing staff (1) are being used in the most economical and efficient manner, (2) can be shifted to fill other more essential positions, or (3) additional personnel are needed.

CHAPTER 6

BETTER COMMUNICATIONS WOULD

IMPROVE ORGANIZATIONAL EFFECTIVENESS

Directing organizations is a difficult and complex function of management. It includes all those activities designed to guide and encourage subordinates to work effectively and efficiently in both the short and long run toward organizational objectives. The successful manager, in directing staff to meet objectives, must think and act in terms of the principles associated with leadership, communication, and morale.

The skillful leader effectively communicates with subordinates and motivates them to work with enthusiasm and confidence--qualities commonly referred to as morale. Communications play a major role in determining how effectively people work together to achieve objectives. "To the extent that communications are lacking, the effectiveness of the organization will be undermined." 1/

There is a need for better communications within FMC, the lack of which we attribute to the leadership style of the Chairman, ignoring the chain-of-command, and oversight by busy managers.

LEADERSHIP STYLE

At oversight hearings in August 1978, two Commissioners testified about communications within FMC. One Commissioner said:

"I have discussed with the chairman the need to improve channels of communication throughout the Commission and to break down barriers of communication which have traditionally existed within this agency."

Later, in response to questions, this Commissioner said that "There is a serious communication problem within the Commission. * * * Horizontally and vertically."

1/Burt K. Scanlon, "Principles of Management and Organizational Behavior" (John Wiley and Sons, Inc., 1973), p. 399.

Another Commissioner testified that:

"Over the past year, I can recall not one single instance when the Chairman has sought, formally or informally, to share, solicit, or even discuss views on any matter of policy or substance concerning Commission business. Indeed, communication of any nature at the Chairman's initiative has been virtually nonexistent even, on informational matters of general interest concerning Commission activity. It is difficult for a member to function effectively in a vacuum."

Since then, communications between the Chairman and the Commissioners have not improved a great deal. The Chairman is the chief executive and administrative officer who--although governed by the policies, regulatory decisions, findings, and determinations of all the Commissioners--is able to exercise great latitude in directing operations and in deciding just what information is brought to the attention of the other Commissioners. How well the Chairman keeps the other Commissioners informed is, of course, a measure of how well he is fulfilling his leadership responsibilities.

The Chairman is an aggressive and forceful leader with a driving desire to get things done without delay. He has been characterized as "an arch enemy of delay." This is a commendable goal for the leader of a regulatory agency. However, in his effort to get things done quickly, the Chairman has not always kept, or chosen to keep, his fellow Commissioners fully informed and he sometimes acted on important matters without their prior knowledge. Some recent examples follow.

--Making a last minute direct effort seeking to intervene in a civil maritime court case in the U.S. District Court in California, even though the General Counsel had already concluded there was no legal basis for intervention. This unprecedented direct contact with the court was reported in the news media.

--Agreeing at a London conference to give a certain group of foreign countries a 30-day advance notice of proposed enforcement actions by FMC to allow for their consultation and consideration of alternative solutions.

--Directing FMC's former General Counsel to take enforcement action against a foreign carrier, contrary to the General Counsel's advice. Ultimately, the enforcement action was not taken.

The Chairman felt that he was merely carrying out FMC policy in the foregoing actions. On the other hand, most of the other Commissioners told us that they believed these were policy matters on which they should have been consulted. This problem was discussed recently when the Commissioners met because of a concern expressed by one member for the need to establish ground rules, standards, or understandings about matters that are appropriate for Commission attention as a body, before the fact rather than during or after the fact. A Commissioner believed the whole issue was a fundamental question of "communication." A wide-ranging discussion ensued but nothing was resolved when, according to another Commissioner, the Chairman abruptly adjourned the meeting.

Open communications between the Commissioners on all important and unprecedented issues would foster good working relations, even when the Chairman has the legal "right" to act unilaterally. One noted authority 1/ had the following to say on this subject:

"What difference does it make whether a chairman consults extensively or minimally? The act of consultation, no matter in what form, generally does not require chairmen or their agents to alter an established position or to revise a proposed course of action. Extensive consultation cannot be said to limit the discretion of chairmen in significant fashion. A low level of consultation allows chairmen to proceed without the necessity to explain or justify decisions. The consequences are a marginal enlargement of discretion and, possibly, a long-term, adverse impact on morale and the climate of the relationship with colleagues."

1/David M. Welborn, "Governance of Federal Regulatory Agencies," (The University of Tennessee Press, 1976), pp. 47 and 48.

He then went on to quote a study of another regulatory agency which concluded:

"The key factor is consultation. Where the chairman asserts his full authority aggressively, commissioners tend to feel demoted and unable to play their proper role. Where a chairman carefully consults his fellow commissioners concerning major decisions and uses his powers cautiously, the members are glad to be rid of the administrative routine."

IGNORING THE CHAIN-OF-COMMAND

In the present organizational structure of FMC, the General Counsel reports directly to the Chairman, subject to the managerial direction and coordination of the Managing Director.

To improve the timeliness of actions by the General Counsel's office, the Chairman and his assistants often bypass the General Counsel and deal directly with the attorneys on his staff. These attorneys have been given assignments concerning intermodalism, bunker surcharges, statutory review, and similar matters and they have also received written instructions and directions all without prior consultation with the General Counsel or his principal assistants. Such actions may prove to be effective on an occasional or a short-term basis, but over the long-run, they can create havoc. They usurp the authority of the officials responsible for running the office; affect the ability of the staff to deal with their regular assignments; create confusion, uncertainty, and concern for job retention; and have a deleterious effect on staff morale.

The Chairman said he bypassed the former General Counsel 1/ because of difficulties he had in dealing with him. We were recently informed that the new General Counsel does not believe that the Chairman or his staff has ever bypassed him.

1/On August 1, 1979, the incumbent General Counsel was appointed an FMC Administrative Law Judge. The Chairman's Special Assistant for International Programs was appointed the General Counsel.

MANAGEMENT OVERSIGHT

During our review a number of FMC officials described to us circumstances which revealed that they were not being adequately informed about matters which affected either their morale or that of their staffs. This oversight did not appear to be intentional, but rather resulted from the fact that busy managers were caught up with the day's activities--putting out "fires" and making ad hoc decisions.

Morale has been described to us by Commissioners, FMC officials and supervisors as "not spectacularly high," "lousy," "demoralized," "better now than 2 years ago," and "lower than in the past." Two officials told us that they no longer looked forward to coming to work. These people attributed poor morale to some external factors such as changing Government personnel policies over which FMC has no control and some internal factors over which FMC does have some control. These are the areas where management could work to improve communications and morale. Some of the more important areas mentioned are as follows:

1. Long-delayed impending reorganizations.

The Bureau of Ocean Commerce Regulation was established in January 1979 as a result of the work of the Task Force on Commission Organization. A decision was then made not to make any further organizational changes in FMC until the task force completed its reviews of all other FMC bureaus and offices. One agency official said his staff had asked him about rumors that their office may be reorganized, and he believed this concern had lowered his staffs' morale. Another agency official said he believed his staffs' morale was very good, but he went on to say that there was some anxiety among his staff about the possibility of their being reorganized.

Management should have told the staff the reasons for the delays and tried to alleviate their concerns.

2. Vacant management position.

The position of Deputy Managing Director has been vacant since October 1978. One Bureau Director stated that FMC needed to fill this position in order to speed up the processing of documents and to provide review and direction when both the Managing Director and the Chairman were not present. Another Bureau Director stated that he is frustrated, and his staff must be frustrated, by the delays in the Managing Director's office. Two other agency officials stated that they did not know why this position had

not been filled because the Managing Director has too much to do.

Management should explain to the staff its reasons for not having filled this position. (See p. 39.)

3. Additional assignments without regard to regular staff workload.

In order to process an increasing backlog of small claims settlement cases, FMC officials in mid-1979 redistributed and assigned these cases to an additional 35 staff members. This matter is discussed on pp. 37 and 38. A staff supervisor told us that the assignments were arbitrary and that cases had been assigned to some staff with no experience in tariffs. Several staff told us it was rumored that adverse comments would be placed in the personnel files of those who did not complete the number of cases expected of them each month. Since the rumor still prevailed in November 1979, we discussed this with the Office of Personnel and were informed that adverse comments were not placed in the files. Our test check of several personnel files also did not disclose adverse comments.

Management should clarify its position with all employees assigned to handle these cases.

CONCLUSIONS

Effective communications are necessary if people are to work together in meeting organizational goals and objectives. At FMC, there are numerous instances of poor communications at all levels of the organization.

Increased attention to improving communications within FMC is essential. The means to do this are many and varied. Promulgation of agency plans, enhanced staffing, adoption of a management information system, and expanded use of auditing techniques are all means by which management and employees could communicate more effectively. Improving these management functions, as discussed in other chapters in this report, and improving the type of direct, personal communications discussed in this chapter will bind FMC together and enhance its efficiency and effectiveness.

RECOMMENDATION TO THE CHAIRMAN, FMC

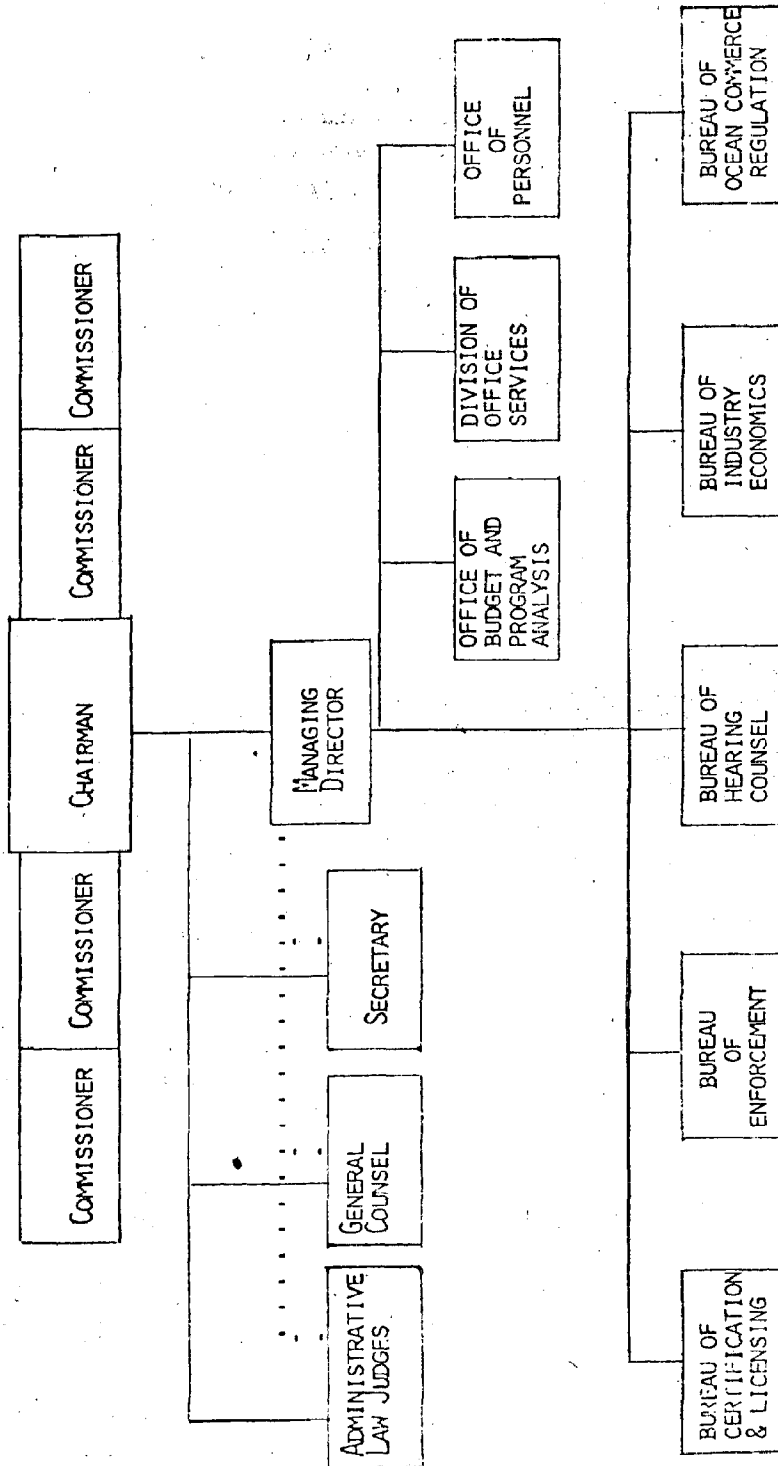
We recommend that the Chairman establish a continuing FMC goal of "improving communications" and take a direct, personal interest in seeing that a participatory management approach is actively pursued throughout all levels of FMC.

AGENCY COMMENTS AND OUR EVALUATION

The Chairman concurred with our recommendation. He informed us that FMC recently inaugurated a quarterly employee magazine, expanded the traditional incentive awards program, revised personnel policies to further reward staff achievement, and is currently resuming publication of the weekly Intra-Agency Status Memorandum (schedule of important events). However, he objected to our statement that morale at the Commission is not good and cited FMC's extraordinary productivity within the past 2 years, relatively low rates of turnover and absenteeism, and the paucity of formal complaints.

In view of the Chairman's comments on morale, we reevaluated our position and clarified our comments. Regardless of the Chairman's comments on productivity and other "indicators" of good morale, the problems of communication at the Commissioner level and the comments we received from agency officials during our review cannot be ignored. Consequently, we are pleased that the Chairman has accepted our recommendation and has taken actions to improve communication.

FEDERAL MARITIME COMMISSION



ADMINISTRATIVE DIRECTION

Richard J. Daschbach
 RICHARD J. DASCHBACH
 CHAIRMAN

August 9, 1979

FIELD OFFICES

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APPENDIX II

NINETY-FIFTH CONGRESS

JOHN M. MURPHY, N.Y., CHAIRMAN

THOMAS L. ASHLEY, OHIO
JOHN D. DINGELL, MICH.
PAUL G. ROGERS, FLA.
WALTER B. JONES, N.C.
ROBERT L. LEGETT, CALIF.
MARIO BIAGGI, N.Y.
GLENN M. ANDERSON, CALIF.
E (KIKI) DE LA GARZA, TEX.
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BO GINN, GA.
GERRY E. STUDDS, MASS.
DAVID R. BOWEN, MISS.
JOSHUA EILBERG, PA.
RON DE LUCA, V.I.
CARROLL HUBBARD, JR., KY.
DON BONKER, WASH.
LES AU COIN, OREG.
NORMAN E. D'AMOURS, N.H.
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WILLIAM J. HUGHES, N.J.
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PAUL N. MC CLOSKEY, JR., CALIF.
GENE SHYDER, KY.
EDWIN B. FORSYTHE, N.J.
DAVID C. TREEN, LA.
JOEL FRITCHARD, WASH.
DON YOUNG, ALASKA
ROBERT E. BAUMAN, MD.
NORMAN T. LENT, N.Y.
DAVID F. EMERY, MAINE
ROBERT K. DORNAN, CALIF.
THOMAS B. EVANS, JR., DEL.
PAUL S. TRIBLE, JR., VA.

U.S. House of Representatives

Committee on

Merchant Marine and Fisheries

Room 1334, Longworth House Office Building

Washington, D.C. 20515

October 13, 1978

CHIEF OF STAFF
CARL L. PERIAN
CHIEF COUNSEL
ERNEST J. CORRADO
CHIEF CLERK
FRANCES STILL
MINORITY COUNSEL
W. PATRICK MORRIS

Honorable Elmer B. Staats
Comptroller General of the
United States
General Accounting Office
441 G Street, N.W.
Washington, D. C. 20548

Dear Mr. Staats:

As you are aware, the Subcommittee on Merchant Marine is engaged in a comprehensive review of regulation of liner shipping in our foreign commerce and has held a series of hearings in the past few months. The purpose of these hearings is to analyze the Federal Maritime Commission (FMC) and evaluate its effectiveness in administering the laws enacted by the Congress and to identify problems and deficiencies relating to legislative authority and operational activities.

Mr. Peter Kyros, counsel to the Subcommittee, has met on several occasions recently with representatives of your Community and Economic Development Division. The information provided us by your staff was very useful in the hearings held on August 10 and 15, 1978.

We are now planning additional oversight hearings commencing early in 1979. In this connection, it would be helpful to the Subcommittee if your staff could assist us further. Specifically, we would like to know whether the FMC is reviewing section 15 agreements in an effective and timely manner in accordance with the criteria specified in the shipping laws and regulations. [See GAO note below.]

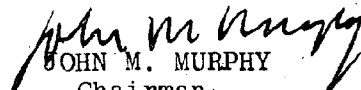
GAO note: On February 5, 1979, we orally reported the results of our review of section 15 shipping agreements to the staff of the Subcommittee on Merchant Marine. We also reported these results to the Chairman, FMC. (See app. III.)

Further, we request that your staff conduct a detailed evaluation of the organization and management of FMC. In this connection, we are concerned about such matters as how the FMC establishes goals and objectives, allocates resources, establishes priorities, conducts forward planning, and directs the day-to-day activities of the staff.

In addition to providing a completed report on these matters, we would appreciate your keeping Mr. Kyros informed as your work progresses.

Your prompt attention to this matter is appreciated.

Sincerely,


JOHN M. MURPHY
Chairman



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

COMMUNITY AND ECONOMIC
DEVELOPMENT DIVISION

MAR 21, 1979

Honorable Richard J. Daschbach
Chairman, Federal Maritime Commission
Washington, D.C. 20573

Dear Mr. Chairman:

Members of my staff recently met with your Vice Chairman, Managing Director, and the Director, Bureau of Ocean Commerce Regulation (OCR) to inform them of the results of our review of Section 15 shipping agreements. We had orally reported this same information to the staff of the Subcommittee on Merchant Marine, House Committee on Merchant Marine and Fisheries. Following are details of the matters discussed with your officials.

We reported that the Federal Maritime Commission (FMC) needs to establish written guidance to improve the quality and timeliness of actions taken on Section 15 shipping agreements. FMC has not (1) defined what constitutes an acceptable justification for an agreement, (2) established time limits for the receipt of agreement justifications, or (3) specified the actions to be taken by the FMC staff when an acceptable justification is not submitted. Both external parties and internal staff need this type of guidance. We also pointed out that FMC does not have any formal training program for its analysts, other than on-the-job training.

Our findings were based on (1) our analysis of the 172 Section 15 agreements completed during fiscal year 1978, (2) our detailed review of 31 selected agreements, (3) FMC's long outstanding proposed rule (Docket 76-63) to improve the quality and timeliness of agreements and (4) FMC's task force report of April 1978. These problems were discussed with and acknowledged by FMC officials and personnel during our review.

We looked at the length of time it took to complete the 172 agreements in fiscal year 1978 and found that FMC was not meeting its goal of processing all Section 15 agreements within 6 months. Our analysis revealed that only about 70 percent of the agreements were being processed within a 6 month period. The remaining 30 percent extended to as long as 2 years. Further, an analysis of agreements pending on November 30, 1978, showed that FMC still had a backlog of cases older than 6 months.

We discussed with your officials the results of our detailed review of the 31 selected agreements which clearly showed the need to improve the quality of the justification, especially for highly anti-competitive agreements, and the need to shorten the time involved in processing these agreements. The Director, OCR, thought the agreements we had selected were representative and revealed FMC's major problems. We discussed several of the agreements in considerable detail. I am enclosing copies of the five summary documents which were given to your officials and used as a basis for the discussion.

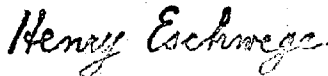
Referring to our overall findings, the Vice Chairman advised that FMC plans to take action to improve the processing of Section 15 agreements. The Director, OCR, explained that, since GAO personnel had last discussed the problems with him in January 1979, he and the Deputy General Counsel had resumed work on the proposed FMC rule to improve Section 15 agreements. This will involve issuing a final rule to outside parties and the issuance of an internal procedure to the FMC staff. The Vice Chairman expected these actions to be finalized by March 1, 1979.

Concerning additional training for the staff, the Managing Director stated that he has current plans for the staff to be briefed on the latest court decisions affecting their work. Also, he was planning lectures for the staff on transportation economics. Further, the staff analysts are now making their own presentations to the Commissioners. He hoped these activities would broaden the analysts' knowledge of the shipping industry and improve the dialogue among the staff within the Office of Agreements and between that staff and other FMC offices.

We will be pleased to further discuss the foregoing matters with you, if you so desire, or consider any further comments you may wish to make.

I would like to express my appreciation for the excellent cooperation your officials have given to my staff.

Sincerely yours,



Henry Eschwege
Director

Enclosures (5)



Office of the Chairman

Federal Maritime Commission

Washington, D.C. 20573

November 2, 1979

Mr. Henry Eschwege
Director
Community and Economic
Development Division
U.S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:

We have received your draft report entitled "Critical Management Functions At The Federal Maritime Commission Are Not Being Performed" and appreciate the opportunity to comment briefly upon it.

We welcome most of the report's conclusions and recommendations, since they confirm the findings that have evolved from our own initiatives, particularly those of the Task Force on Commission Organization, whose work products have hopefully assisted you in the preparation of your draft.

The need to establish a long-range planning capability and to upgrade our management information system has been one of my personal priorities since I became Chairman of the FMC. We are pleased that you concur in the importance of these functions and the need for additional staff resources to implement them.

Since additional staffing is a prerequisite to the successful development of the policy planning and management information functions we agree are essential to the Commission's effectiveness, we urge that Chapter 5 of the draft report be moved forward to immediately follow the introduction.

Our development of new functions and successful achievement of existing goals and objectives is, as you have noted, dependent upon adequate staffing. We therefore believe that the need for additional personnel you have accurately cited in Chapter 5 and the additional staffing requirements imposed by the recent enactment of five new laws provide a logical foundation for subsequent discussion of the Commission's current progress in fulfilling its regulatory responsibilities.

The extent to which the Commission has targeted its need for additional staffing is reflected in the FY 81 budget request, which has been appended to illustrate our efforts to ensure that we have sufficient physical, fiscal, and manpower resources to continue our progress toward our stated goals and objectives.

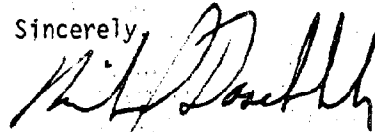
With respect to this progress, I must note that the draft report's assertion that the FMC has no planning documents is rather perplexing in view of our Statutory Review Committee's exhaustive, eighteen-month review and revision of the Commission's governing statutes that resulted in the FMC's Revised Shipping Act, unanimously endorsed by the full Commission and submitted to the Congress on July 19, 1979. I can envision no planning document more comprehensive or essential than our complete overhaul and redrafting of the sixty-three-year-old Shipping Act, 1916, which redefines the FMC's regulatory mission and responsibilities to conform to changing circumstances in the United States ocean commerce. In view of the potential scope and impact of this achievement upon future regulatory activities of the Commission, its omission from the draft report is inexplicable.

The only recommendation with which we do not concur is the proposal that the FMC develop an internal, independent audit capability beyond that mandated by President Carter in the area of waste and fraud, which we have put into effect. A full independent audit capability is not practical for an agency of our size and character. Not only do we lack sufficient staff to implement such a function, but the need for an audit component is rendered unnecessary by the Commission's quasi-judicial status. All rules, regulations, policies, programs, and orders are subject to review by Administrative Law Judges, the full Commission, and appellate courts throughout their development and promulgation, providing us with a constant, "built-in" audit capability.

Finally, I would like to correct the erroneous characterization that "it is generally acknowledged that morale at the Commission is not good" (p.46). This unsubstantiated allegation is belied by the FMC's extraordinary productivity within the past two years, relatively low rates of turnover and absenteeism, and the paucity of formal complaints to the Office of Personnel, the logical repository for staff dissatisfaction.

In order to retain focus on the substantive issues raised by the draft report, and recognizing the time constraints imposed by the deadline on our comments, we do not intend to recite a litany of specific technical comments or identify specific misstatements. We would like to again express our appreciation for the opportunity to review the draft report and express the hope that its confirmation of our perceived needs will serve as a foundation for support of the FMC's future regulatory initiatives. [See GAO note below.]

Sincerely,



Richard J. Daschbach
Chairman

GAO note: We subsequently obtained additional detailed comments and have considered them in finalizing this report. (See app. V.)

Addendum

The Federal Maritime Commission requested 52 additional positions and \$940,000 for fiscal year 1981 as follows:

1. Sixteen additional positions and \$267,000 to implement the Ocean Shipping Act of 1978, P.L. 95-483 enacted on October 18, 1978.
2. Nine positions and \$190,000 to implement the Shipping Act Amendments of 1979, P.L. 96-25 enacted June 19, 1979.
3. Twenty-seven additional positions and \$483,000 in order to deal with serious problems in the ocean shipping industry and to successfully alleviate these problems.



Office of the Chairman

Federal Maritime Commission

Washington, D.C. 20573

December 3, 1979

Mr. Henry Eschwege
Director
Community and Economic Development Division
U.S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:

We are submitting the following comments on the draft report "Critical Management Functions At The Federal Maritime Commission Are Not Being Performed" in order to review the various deficiencies cited by the GAO and recommend changes where the GAO's statements are inaccurate, misleading, or reflect a fundamental misunderstanding of the Commission's statutory responsibilities.

We hope that the GAO will incorporate these recommended changes in their final report in order to avoid issuing a generalized boilerplate critique and provide instead a thoughtful analysis with which both the FMC and the Congress can address genuine management problems and base future remedial action and planning.

Some of the problems alleged in the report result from statutory or budgetary constraints upon the agency over which we have no control. Other problems cited by the GAO have been the target of significant Commission initiatives during the past year which have not been noted in the draft report. Still other problems described in the study are undocumented by factual information. We believe that they do not exist and any Commission efforts to "solve" them would be a waste of time, energy, and manpower.

[GAO COMMENT: Our comments on the foregoing matters are contained in the detailed sections which follow in this letter.]

The concluding chapter of the report, entitled "Better Communications Would Improve Organizational Effectiveness and Employee Morale," epitomizes the basic weaknesses which characterize the entire report.

The GAO auditors cite "numerous and repetitive instances of poor communication" at the Commission as a hindrance to achieving organizational goals. An entire six-page chapter is devoted to this problem.

However, the only documentation provided for this allegation consists of excerpted statements made by two Commissioners, one of whom resigned six months ago.

[GAO COMMENT: Chapter 6 is divided into three sections--leadership style, ignoring the chain of command, and management oversight. The Chairman has referred to only a portion of the first section which not only includes the excerpted statements, but also includes (1) three specific examples that other Commissioners believed were policy matters on which they should have been consulted and (2) reference to a Commission meeting held to discuss communication problems between the Commissioners. The other two sections contain additional documentation.]

No mention whatsoever is made of the fact that:

- 1) The Chairman is the first ever to hold executive level seminars to promote planning, executive discussion, and organizational development.
- 2) The Chairman conducts regular "brown-bag" lunches in his office which are open to all Commission employees. This Chairman is the first to inaugurate such a policy.
- 3) In one of his first actions, the Chairman hired an outside consultant to review agency communications. Most of the consultant's recommendations have been implemented.

[GAO COMMENT: This contract was not entered into until a year after the Chairman took office. Some recommendations were not implemented and two that had been implemented were dropped and are to be resumed.]

- 4) The Chairman has a constant "open door" policy. Interviews with staff will confirm that previous Chairmen did not maintain such a policy.
- 5) Press releases and speeches are circulated to the staff on a regular basis. For the first time, advance notices of Commission hearings which outside parties may attend are published on a weekly basis.
- 6) Despite limitations imposed by conflicting schedules, the Administrative Procedures Act, and the Government in the Sunshine law, the Chairman scheduled at least fifteen special meetings with other Commissioners in order to draft the FMC's Revised Shipping Act.

[GAO COMMENT: FMC was able to provide us with the dates for only seven meetings with other Commissioners, all within a 22-day period in June and July 1979. Two Commissioners had informed us they had not been consulted or advised on the legislative package until after a draft of it had been disclosed outside the agency.]

- 7) At least five special meetings were scheduled with other Commissioners to prepare the agency's submission to the President's Interagency Task Force on Maritime Policy, also at the Chairman's initiative.

[GAO COMMENT: FMC was able to provide us with the dates for only three meetings with other Commissioners, all within a 23-day period in October and November 1978. One Commissioner had informed us that the Commissioners had so little time to review the draft submission that it was physically impossible to resolve differences.]

- 8) The Managing Director is the first in recent years to conduct regular staff meetings.
- 9) The GAO failed to identify a single positive aspect of communication of personnel information, but that communications channel works so effectively that one of the GAO auditors actively pursued FMC employment while assigned to audit the agency.

[GAO COMMENT: There was no active pursuit of FMC employment by the GAO auditor beyond that normally involved in applying for a Government position. A personnel vacancy announcement was posted on a bulletin board in March 1979 with an April 11, 1979 closing date. The announcement was open to not only FMC and other Federal employees, but to all sources. In December 1979, the GAO auditor who applied for the position was informed that he was among the highest qualified but was not selected for the position.]

[GAO COMMENT: In regard to all of the preceeding nine items, many areas are not mentioned in our report, but we do try to provide it with a balanced presentation. For example, in chapter 6, we have commended the Chairman's goal for overcoming regulatory delay. (See p. 44.) In other sections of the report, we have discussed the Chairman's establishment of task forces to give attention to FMC problems he recognized (see p. 9), management action to develop an information system (see p. 22), and attempts to obtain more staff (see p. 39). We have also added a balancing statement on the first page of chapter 1.]

Chapter 6 also states that "it is generally acknowledged that morale at the Commission is not good and this condition pervades all levels within the organization."

[GAO COMMENT: After receiving the Chairman's first letter and reevaluating the draft report, we deleted this statement from the report.]

This allegation is almost totally undocumented, except for a single paragraph containing one- and two-word characterizations of morale by five anonymous Commission personnel. Two of the five random comments are positive.

[GAO COMMENT: Additional documentation was contained in the paragraphs which followed. This information has been clarified and expanded in the final report.]

Although the GAO report attempts no objective measurement of employee morale, several criteria could be used to gauge the attitudes of FMC staff, including productivity, turnover, and the level of complaints to the Commission's Office of Personnel, the natural repository for employee grievances.

Productivity. The Commission issued 193 final decisions in FY 78 and 252 final decisions in FY 79, more than in any previous year in the Commission's history. More decisions were issued in FY 78 than in the four years from FY 74 to FY 77 combined, and that figure was surpassed in FY 79. More decisions were issued during the first month of FY 80 (57) than in any year from 1974 to 1976.

[GAO COMMENT: The present Commission is issuing more final decisions, but the foregoing information is not totally accurate. FMC records and annual reports disclose the following.

<u>Fiscal year</u>	<u>Number of final decisions issued</u>	
1979	300	
1978	193	
1977	148	
1976 (15 mos.)	84	} 351]
1975	63	
1974	56	

During FY 79 the Commission instituted over twice as many rulemaking proceedings than in any of the previous five years. The FMC also issued more decisions in informal dockets last year than ever before. The Commission processed a record 358 agreements during the past fiscal year. In 1977, over twenty docketed proceedings pending before the Commission were at least five years old. Today there are none. More anti-rebating cases were settled last year than in all previous years combined.

[GAO COMMENT: FMC records do disclose that 358 agreements were processed in fiscal year 1979. However, this fact is somewhat misleading and not as impressive when compared to prior year statistics. The 358 agreements include 140 terminal agreements and 61 labor management agreements that, in prior years, were separately reported. For example, in fiscal year 1978, FMC reported 169 shipping agreements, 150 terminal agreements, and 33 labor management agreements for a total of 352. Further, it should be noted that of the 208 shipping and terminal agreements pending approval as of September 30, 1979, over half are older than 6 months, including 9 that are older than 3 years.]

It is difficult to believe that a demoralized agency could generate such prodigious activity and achievement.

Turnover. Employee turnover is another accepted indicator of agency morale. Employee turnover among full-time permanent employees was 14% in 1978 and 12% in 1979. The turnover rate for all staff, including summer and temporary workers, was 19.9% during FY 79, roughly equal to the rate for four comparable small regulatory agencies.

Grievances. There have been no formal grievances during the past two years.

[GAO COMMENT: We had already considered these comments from the Chairman's first letter. We still believe that the problems of communication at the Commissioner level and the comments we received from agency officials during our review cannot be ignored. We are pleased that the Chairman is planning to take actions to improve communications. (See p. 49.)]

Although the draft GAO report's assertion that FMC morale is low is singularly unpersuasive in view of these figures, the study subsequently describes some of the alleged circumstances creating a morale problem at the Commission:

"It is difficult to understand how an intermediate layer of 'control' would correct a timeliness problem, especially when the General Counsel's Office believes it is understaffed." (p.45)

This statement is incorrect. The General Counsel does not believe that his office is understaffed. (p. 46) [see GAO note, p. 83.]

[GAO COMMENT: The statement in our draft report about layer of control and understaffing has been deleted based on the new General Counsel's belief on staffing. Any question on staffing should be resolved when FMC undertakes our recommendation for an agencywide assessment of its staffing needs.]

"To improve the timeliness of actions by the General Counsel's Office, the Chairman and his staff assistants often bypass the General Counsel and deal directly with the attorneys on his staff." (p.46)

This statement is also incorrect. The General Counsel does not believe that he has ever been bypassed by the Chairman or his staff.

[GAO COMMENT: This comment by the new General Counsel has been added to the report.]

These inaccuracies can easily be traced to the startling fact that the GAO auditors never interviewed or even spoke to the General Counsel. All comments attributed to the General Counsel or the General Counsel's Office under the heading "Ignoring the Chain-of-Command" are therefore invalid or obsolete, since the GAO never once interviewed the individual who has served in that capacity since August 1, 1979 - over four months ago.

In view of the importance of successful interaction between the FMC's "line bureaus" and its legal staff in promoting organizational efficiency and effectiveness, failure to contact the General Counsel even once seriously detracts from the thoroughness of any analysis of Commission operations.

[GAO COMMENT: Our statements are accurate. They are based on information obtained from and/or interviews with the former General Counsel, the two Deputy General Counsels, and a report prepared for the Commission by a consultant. We did not interview the new General Counsel because he was appointed at a time when our audit work was virtually complete. His appointment however, was noted in our draft report.]

Under the heading "Management Oversight" (pp.47-48), the study claims that morale might be improved if management explained its rationale for the following types of action or lack of action:

"Long, unfilled management position which created backlogs and delays that frustrated the staff."

This so-called 'problem' is documented nowhere in the report. At a November 1, 1979 staff meeting with the Managing Director, not a single bureau director or office chief believed that this was a problem. The report refers in parenthesis, ostensibly for supporting information, to p. 37, which does not address this subject.

"Difficulty in obtaining guidance from management."

This assertion is also undocumented. No staff supervisor or manager believed that this was a problem. A parenthetical reference is made to p. 12, which deals with other subjects.

"Upper level management decisions which reverse staff positions without prior consultation or subsequent explanation."

There is neither documentation nor any evidence of staff awareness of this problem. A parenthetical reference is made to p. 42. Page 42 does not mention this problem.

"Arbitrary assignments without regard to staff workload, with the implication that penalties would be invoked for untimely performance."

No bureau director or office chief could cite an example of this alleged problem. Neither does the report. A parenthetical reference is made to p. 35. Page 35 does not address this problem.

[GAO COMMENT: We acknowledge that these page references were in error on the draft report because of last minute changes. We would like to point out, however, that our transmittal letter to the Chairman identified individuals who could be contacted for further information regarding this report. To avoid further confusion, this section has been revised and expanded into a self-contained unit.]

Other statements in Chapter 6 reflect a similar lack of supporting material or factual information. Listed as an example of "actions... recently taken by the Chairman without the knowledge and consent of the other Commissioners" is "agreeing at a London conference to give a certain group of foreign countries a 30-day advance notice of proposed enforcement actions by the Commission...." (p. 44).

This assertion betrays unfamiliarity with the facts and Commission precedent. The Chairman asked the Vice Chairman to accompany him to the London conference, which he did. As a matter of administrative procedure, such discussions have always been conducted by the Chairman. It is clear that none of the three principals attending the conference - the Chairman, the Vice Chairman, or the Chairman's Special Assistant for International Programs - was interviewed regarding the participants at the meeting.

[GAO COMMENT: We interviewed all five Commissioners regarding the agreement the Chairman made at the London conference and summarized these discussions in our report. We interviewed the Vice Chairman on June 14, 1979, and the Chairman on June 25, 1979. The Vice Chairman told us that he agreed with the Chairman in London, but he also said, as did two other Commissioners, that the agreement was a policy matter on which the other Commissioners should have been consulted. The Chairman did not believe it was a policy matter. One Commissioner also told us that a former Chairperson in a similar situation obtained advanced approval before going overseas and later called back for additional support from the other Commissioners.]

Even in its reliance on other literature concerning government regulatory agencies, the GAO report reflects either ignorance or a highly selective choice of statements concerning the FMC's leadership, organization and operations as contemplated by law.

[GAO COMMENT: These matters are discussed in our next two comments.]

The report quotes David M. Welborn's Governance of Federal Regulatory Agencies as stating (about another regulatory agency) that "the key factor is consultation. Where the chairman asserts his full authority aggressively, commissioners tend to feel demoted and unable to play their proper role. Where a chairman carefully consults his fellow commissioners concerning major decisions and uses his powers cautiously, the members are glad to be rid of the administrative routine."

[GAO COMMENT: Our report recognized that the foregoing quotation referred to a study of another regulatory agency. We also had an additional quotation discussing the differences it makes in whether a chairman consults extensively or minimally. It concluded that the consequences of a low level of consultation are a marginal enlargement of discretion and possibly, a long-term adverse impact on morale and the climate of the relationship with colleagues. Both of these quotations contained, in our opinion, insights into the benefits to be obtained from keeping fellow Commissioners fully informed.]

The report does not quote the following statements which are contained in Welborn's same book:

"Formal allocations of authority and responsibility must be extended into organization arrangements if they are to be utilized effectively..... The Federal Communications Commission and the Federal Maritime Commission are exceptions. In the former, the chairman's role is defined in limited terms; in the latter, it is defined in expansive terms." (p.24)

"Of the six agencies discussed thus far, the chairmanship in the Federal Maritime Commission emerges as the most potent office." (p.23)

"The most emphatic manifestation of preeminence is in the Federal Maritime Commission and is related to the potent base of formal authority provided that chairman." (p. 33)

Although the GAO auditors criticize the Chairman's "aggressive leadership style," their own source for advice on the proper administration of government regulatory agencies states "the extent to which chairmen are leaders is critical in the problem of agency governance." (p.27)

[GAO COMMENT: The foregoing comments regarding the more clearly defined authority of the FMC Chairman appear to imply that there is less of a need for the Chairman to communicate and consult with his Commissioners. We do not agree and, therefore, did not consider these statements pertinent to our discussion in the report. Regarding the Chairman's authority, we did report that he is the chief executive and administrative officer, but is governed by the policies, regulatory decisions, findings, and determinations of all the Commissioners. (Reorganization Plan No. 6 of 1949, Section 1.) We also expressed the belief that open communications between the Commissioners on all important and unprecedented issues would foster good working relations, even when the Chairman has the legal "right" to act unilaterally.]

The Federal Maritime Commission shares the GAO Report's belief that good communications and good morale are essential to the effective operation of the agency. We are currently resuming publication of the weekly Intra-Agency Status Memorandum and the quarterly employee magazine that we recently inaugurated to further this objective, and we have recently expanded our traditional incentive awards program and revised personnel policies to further reward staff achievement. The GAO auditors should interview the Commission's Office of Personnel in order to learn the full scope of existing agency policies specifically designed to maintain high worker morale, since these programs were never once mentioned in the draft report.

We strongly concur with the report's final recommendation that "the Chairman establish a continuing Commission goal of 'improving communications' and take a direct, personal interest in seeing that a participatory management approach is actively pursued throughout all levels of the Commission."

This is a goal to which all government agencies should make a major commitment. We are deeply concerned, however, that the GAO draft report 1) fails to acknowledge the important programs that we have already established in this area; 2) fails to note the extent to which the current Chairman has dramatically improved communications and increased involvement of other Commissioners in the FMC's decision-making process compared to his predecessors; and 3) fails to acknowledge the 'strong Chairman' model explicitly spelled out in the President's Reorganization Plan No. 6 of 1950 and No. 7 of 1961 that clearly mandate a different role for the Chairman of the FMC than that envisioned for other, more collegial regulatory agencies.

Finally, the GAO report's unsubstantiated allegations of poor morale at the FMC fly in the face of productivity, turnover, and grievance statistics that clearly indicate that the Commission's work force is generally stable, energetic, efficient, and productive. Since well-publicized charges to the contrary by an official government investigative agency such as the GAO could themselves affect Commission morale and thus become a self-fulfilling prophecy, we urge the GAO auditors to perform a more thorough factual re-examination of the supporting data for allegations contained in Chapter 6 and recommend that the chapter be substantially revised or eliminated.

[GAO COMMENT: We have added to the agency comment section of chapter 6 those recent actions the Chairman is taking to improve communications, and we have made some revisions to chapter 6 as a result of the Chairman's comments on the draft report and our own internal review process. We are pleased that the Chairman strongly concurs with this chapter's recommendation.]

The following is a chronological analysis of the other five chapters of the GAO study. Although we believe that these chapters also contain criticisms that are either inaccurate or fail to grasp the statutory mandate, responsibilities, and constraints unique to the FMC, they contain substantial areas in which consensus can be achieved and a foundation developed for productive future policymaking and administrative planning.

Chapter One. Chapter one consists of an accurate synopsis of the Commission's organization and statutory obligations. Our main concern focuses upon p. 5, final paragraph, in which the GAO audit team discusses the scope of its interview process.

The Chairman was granted only one forty-minute interview during the course of the entire audit. The Chairman's former Special Assistant for International Programs, who served as liaison for the entire Commission on all policy matters concerning our regulation of an international industry and also served as coordinator of the Commission's Statutory Review Committee, was never interviewed. The Chairman's Executive Assistant, who is responsible for the monitoring of all administrative and management matters at the Commission, was never interviewed. The Commission's current General Counsel was never interviewed. These represent serious omissions in a report designed to present a thorough analysis of Commission administration and management functions.

[GAO COMMENT: We interviewed the Chairman on two occasions--one interview pertained to domestic rate problems and another pertained to many of the matters discussed in this report. Also attending this meeting were the Chairman's Executive Assistant and his former personal Counsel. The Chairman has also had the opportunity to provide written comments on the draft report. At the time of our review, we discussed matters with operating officials and saw no need to interview the Chairman's assistants, one of whom is the current General Counsel who was appointed on August 1, 1979. Also during our review, we interviewed the former General Counsel on a number of occasions.]

Chapter Two. The draft GAO report accurately notes that the FMC has not yet "undertaken a continuous and systematic approach to planning." Failure to develop a long-range planning capability is primarily attributable to our desire to await the recommendations of the Organization Task Force in order to base establishment of a planning component on the functionally reorganized management structure expected to evolve from the Task Force's recommendations.

However, the extent to which this deficiency, albeit genuine, has impaired the Commission's regulatory efficiency has been seriously overstated.

[GAO COMMENT: Planning should be continuous and systematic and cannot be left undone; it is a most important part of management. At least some interim type of planning structure should have been put in place while awaiting the Task Force on Commission Organization's report. This Task Force has been organized since February 1978, and its final recommendations are expected in January 1980. The importance of continuous and systematic planning efforts cannot be underestimated.]

The GAO report states that the "FMC has made some progress towards accomplishing the Chairman's short-term objectives." In fact, these objectives have been almost fully achieved.

The promised "statutory review and legislative recommendations to the Congress which will make FMC more responsive to shipping needs" was submitted to the Congress on July 19, 1979 in the form of the Commission's Revised Shipping Act, unanimously endorsed by all Commissioners. This unprecedented document represented a successful culmination of an extensive eighteen-month effort to completely revise the sixty-three-year-old Shipping Act, 1916 to conform to current needs and problems in the regulation of the U.S. ocean commerce.

The full utilization of all Commissioners resulted in the successful completion of that document, as well as the Commission's January 10, 1979 submission of recommendations to the President's Interagency Task Force on Maritime Policy. These recommendations were substantially incorporated in the President's July 20, 1979 letter to the Congress summarizing the findings of the Task Force. Furthermore, each Commissioner has been assigned leadership of a committee established to address a major functional area of the FMC's regulatory responsibilities. For the sake of brevity, we simply urge that the GAO auditors interview each Commissioner in order to apprise themselves of the dramatic achievements made by each of these committees.

The "development of strategies for streamlining the Commission's decision-making process without sacrificing the quality of its regulatory decisions" has been achieved. New Rules of Practice and Procedure, a revision of Commission Order 87, and a continuing commitment to expedited decision-making have eliminated the Commission's backlog of docketed proceedings and should ensure that it will never recur.

"Opening the Commission to greater input from all segments of the ocean shipping community, as well as the general public" has been achieved through the repeated public statements and testimony of the Chairman and other Commissioners, the opening of a district office in Chicago specifically designed to give shippers a greater voice in maritime affairs, the Commission's series of domestic rate hearings designed to elicit shipper input in our development of new regulations governing domestic rate cases, and other FMC initiatives. The dramatic increase in reparations cases during the past two years, in which the FMC has issued decisions in over 200 informal and special dockets awarding \$1,992,000 in refunds to complainant shippers, reflects one area in which our efforts have produced positive results.

The only short-term objective not yet fully realized is completion of the work of the Organization Task Force. The Task Force's final recommendations are expected during the first quarter of 1980, and its efforts have already resulted in the complete reorganization of the FMC's Bureau of Ocean Commerce Regulation, the Commission's largest operating bureau which is, as the GAO report points out, "responsible for most of FMC's regulatory programs." (p. 4)

The GAO report states that "some (economic) studies which are useful and important for planning and policy formulation purposes" have been conducted. In fact, the Commission has undertaken a systematic examination of current and prospective commercial conditions in the major domestic and foreign trades within its jurisdiction. In the domestic offshore commerce, studies of the Alaska, Hawaii, and Virgin Islands' trades have been completed and published, with only the Puerto Rican trade remaining. In the U.S. foreign commerce, the FMC has published and widely distributed copies of its North Pacific Trade Study and North Atlantic Trade Study. A similar economic analysis of the South American trades has been drafted and will be published shortly.

[GAO COMMENT: The report has been revised to include the Chairman's statement that his short-term objectives have been almost fully achieved. Also, our report had already recognized many of the foregoing activities of the Commission, but not as thoroughly.]

The Chairman urged that we interview each Commissioner to apprise ourselves of the achievements of their committees. During our review, we did interview each Commissioner more than once. During our interviews with some of them, we discussed the work of their task forces.]

The GAO study claims that "the only planning document which FMC has is the annual zero-based budget which is required by OMB." (p.10) This assertion is perplexing in view of the revision of the Commission's governing statutes that resulted in the FMC's Revised Shipping Act. It is difficult to envision any planning document more comprehensive or essential than our complete overhaul and redrafting of the Shipping Act, 1916, which redefines the FMC's regulatory mission and responsibilities to conform to changing circumstances in the U.S. ocean commerce. In view of the potential scope and impact of this achievement upon future regulatory activities of the Commission, its omission from the draft report is inexplicable.

[GAO COMMENT: Based on the Chairman's first response to our report, we deleted "only" from the section on zero-based budgeting. Further, we wish to note that we did not omit reference to FMC's proposed legislative revision (see p. 9) nor do we believe it is a planning document. See p. 15 for further discussion of this matter.]

Page 11 of the draft report is devoted to delays and backlogs. Again, the report is bereft of any statistics such as the length of time currently taken for each proceeding, analysis of time taken for each type of proceeding, former and current backlog, etc. It is apparent that statistics that would attest to regulatory inaction are now a year or two old. The review of current figures synopsized earlier in this commentary to demonstrate the Commission's recent productivity renders this criticism relatively obsolete.

[GAO COMMENT: See our previous comments on productivity which appear on pp. 63 and 64.]

Page 12 notes the Commission's alleged proclivity for "crisis management." The crisis issues set forth are the role of containerization (which began in the late 1950's) controlled carriers (mid 1960's) and increased fuel costs. Of these examples, only the last is a current problem. It was dealt with as an "emergency" surcharge, i.e., that which the statute itself determined was not foreseeable.

While the Commission's "case-by-case decisionmaking" is criticized (p. 13), the comments completely disregard the fact that the Commission was established as a quasi-judicial body. Although we should and do have guidelines governing our regulatory decisions, the due process requirements imposed upon an agency mandated to try each case on its individual facts and merits dictates that we commonly rule on an ad hoc basis, as do other judicial and quasi-judicial bodies.

[GAO COMMENT: The foregoing three paragraphs refer to the section in our report which discusses how a lack of planning has hampered performance and policymaking. (See p. 11.) The situations and examples are used to demonstrate the need for and the benefits and advantages to be derived from a continuous and systematic planning function--focusing attention on regulatory delay and inaction, anticipating events to avoid crisis-oriented decisions, and providing broad policy direction.

Congress has been instrumental in focusing attention on regulatory delay and inaction, not only in the particular case discussed in this report (see p. 11), but also in congressional hearings in August 1978, when FMC was criticized for excessive backlog of formal proceedings and long delays in reaching final decisions.

While the crisis issues referred to may have begun at an early date, the issues are pertinent to current or potential future problems which a planning function could address. For example, intermodalism is a current issue which is an outgrowth of containerization, and the problems in determining reasonableness of rates set by controlled carriers is a current issue resulting from recent legislation.

Even though regulatory agencies do rule on an ad hoc basis, a planning function can still provide broad policy direction in new areas. For this reason we have taken a similar position concerning two other regulatory agencies.]

Chapter 3. We agree that a management information system is needed, and we have taken steps to implement such a program, as noted in the GAO's final full paragraph on p. 21 of its draft report.

We concur in the importance of ADP planning (p.23), and have already contracted with the General Services Administration to maximize long-range planning that can be achieved with computer hardware and software.

The composition of the ADP Steering Committee prescribed in the report (p. 24) has already been finalized. The statement that the FMC "is.....negotiating for a study of its needs for automated information" has been overtaken by events; as noted earlier, that study has already been contracted for.

The Commission has no quarrel with the recommendations of this chapter. We do believe that the GAO auditors were remiss in failing to note that the Commission has sought budget authority for MIS personnel since the beginning of the Chairman's term, that the promised development of an Office of Budget and Program Analysis was completed nearly a year ago, and that the formal evaluation of data processing needs is underway rather than merely contemplated.

[GAO COMMENT: We have considered the Chairman's comments and have made changes in our report, as appropriate.]

In view of the fact that the Commission's management information system is currently in an active state of development, reflecting a need perceived long before the audit of our management functions was conducted, criticism of past inaction does not seem constructive.

[GAO COMMENT: This chapter is presented to inform the reader about the benefits of a management information system, its need in FMC, and the status of its development.]

Some of the criticisms levelled at the FMC in this chapter again reflect the GAO Report's general failure to acknowledge the extent to which Commission decisions are mandated by law rather than discretion.

Under the heading "Decisions Made Without Complete Information," the auditors state "consider the following two decisions - made without complete information - which created or increased the backlog of work" (p. 21) and then cite the allegedly disruptive effects of the self-policing rules.

The report fails to observe that 1) today practically all the conferences ordered to file self-policing rules are in compliance, 2) that this step effectively enforces statutory requirements, and 3) that in making its decision, the Commission interpreted the law. Paragraph one on p. 21 erroneously implies that the Commission has some discretion in how or when the provisions of the statute will be enforced. In short, the facts set out here are not shocking; the alternative, however, would be.

[GAO COMMENT: In this instance, the Commission did have discretion in carrying out the law. The Shipping Act of 1916 provides, in part, that the Commission shall disapprove shipping agreements on a finding of inadequate policing of the obligations under it. By regulation, the Commission had required each agreement to contain a provision for self-policing. Then, the Commission, in April 1978, ordered conferences of three or more liners in the foreign trade to submit amendments to their agreements providing for policing by an independent neutral body. The new amendments were initially to be effective by July 1, 1978, but FMC delayed that date twice to January 1979. Obviously the Commission had discretion under the law to change both the substance and timing of the policing provisions.

Furthermore, we do not agree that practically all the conferences ordered to file new policing amendments are in compliance today. Following is information concerning the neutral body policing amendments required on 95 agreements, as of November 20, 1979.

In total compliance	26
Conditionally approved	31
Pending Commission action	5
Disapproved	11
Canceled	2
Not in compliance	20
Total	<u>95</u>]

Chapter 4. As noted in our comments of November 2, we do not agree with the GAO's recommendation that the FMC develop an internal, independent audit capability beyond that mandated by President Carter in the area of waste and fraud, which we have put into effect.

A full independent audit capability is not practical for an agency of our size and character. Not only do we lack sufficient staff to implement such a function, but the need for an audit component is rendered unnecessary by the Commission's quasi-judicial status. All rules, regulations, policies, programs, and orders are subject to review by Administrative Law Judges, the full Commission, and appellate courts throughout their development and promulgation, providing us with a constant, "built-in" audit capability.

[GAO COMMENT: This comment was already considered as a result of the Chairman's first response to our draft report. We do not agree with the Chairman. This matter is discussed more fully on p. 31.]

Chapter 4 also introduces a confusing recommendation for an enhanced external audit capability. Implicit in this suggestion is a vastly increased oversight role over the U.S. foreign commerce to be performed by the FMC, a role that neither comports with our strong efforts to minimize the burden of government regulation nor the House Merchant Marine and Fisheries' Committee's clear directive that we should seek to minimize our intrusion into commercial activities in our foreign commerce.

[GAO COMMENT: We are not advocating a vastly increased oversight role. Rather, we believe that the scope of the external audit activity should be expanded to include work not now being covered due to higher priority work and audits needed by other FMC offices.]

The suggestion that internal and external audits "need to be combined into one office so that all auditing and investigative activities will be coordinated" is unworkable and reflects a fundamental misunderstanding of the unrelated nature of our mandated supervision of the activities of the liner shipping industry and our discretionary authority to review our own program effectiveness. Investigation of shipping practices in our foreign commerce and investigation of management practices within the FMC itself represent a clear case of apples and oranges.

[GAO COMMENT: After reconsidering the matter, we agree, and have withdrawn our suggestions.]

Under the heading, "No Internal Auditing" the report states that "the lack of controls over cash should not occur." This deficiency was cured on August 15, 1979 when we installed a cash management system.

[GAO COMMENT: We have recognized this statement in our report. Its installation, however, is no defense for not establishing an internal audit unit.]

Chapter 5. We agree with the thrust of this chapter, believing that staffing limitations have impeded our ability to carry out our goals and objectives as expeditiously as we would like.

It is unfortunate that here again the report is bereft of supportive factual information. It would have been helpful if the year-long study could have provided historical information on how FMC total employee figures have changed and particularly where, on the basis of GAO's observations, increases are required.

[GAO COMMENT: Our report discusses, in general, FMC's attempts to obtain more staff between fiscal years 1975 and 1980. We saw no need to address specific, historical figures.]

Page 39 of the draft report documents our unsuccessful efforts to obtain more staff, but the remainder of the chapter is devoted to criticism of this deficiency over which we have no control. The report advises that the "FMC needs to carefully and objectively determine its specific staffing requirements - both quantitatively and qualitatively - in order to convincingly demonstrate and support its requests for staffing needs."

We believe that a review of our recent fiscal year budget requests to OMB do just that, and we are perplexed over how the GAO can emphasize staffing deficiencies on the one hand without recommending areas in which additional staff are needed on the other, especially after a lengthy audit of the Commission's work force.

[GAO COMMENT: Most of our chapter is devoted to a discussion of information which demonstrates the apparent effect of a lack of staffing in certain areas. Our management audit did not include a review of FMC's work force. FMC should undertake this responsibility and we have so recommended.]

Only one specific staff deficiency is noted, targeted by the spectacular headline "Key Vacancy Contributed to a Bottleneck." We do not concur that the absence of a Deputy Managing Director has contributed to a bottleneck at all, nor did the bureau directors and office chiefs who attended the November 1, 1979 staff meeting.

If anything, the vacancy has removed an unnecessary layer of administration pending the Managing Director and the Task Force's assessment of how that office should be utilized and, consequently, how that vacancy should be filled.

[GAO COMMENT: Prior to the receipt of the Chairman's letter we had revised this section and the side caption. Further, we now point out in chapter 6 that two Bureau Directors and two other agency officials did tell us that they believed this Office had contributed to delays.]

Although we agree that additional staff training is desirable and are currently embarking on such a program, page 40, indented paragraph 1 cites the number of management staff on the Reorganization and Statutory Review Committees as proof of the need for management training. This is an utter misunderstanding of the purpose of both Task Forces. They were intentionally designed to draw on the expertise of the agency to eliminate serious problems caused by administrative or statutory impediments. The membership thus in no way demonstrated the "lack of sufficient numbers of qualified people." Instead, it made use of those individuals with the most experience and best qualifications for planning major structural changes that they themselves would have to administer.

[GAO COMMENT: The draft report was referring to statements the Chairman made during our interview with him. Based on the above statement the Chairman made, we have deleted this from the report.]


CONCLUSION

With the exceptions of Chapters 4 and 6, we concur with the general findings of the GAO audit team. It is unfortunate, however, that the same deficiencies that characterize these two chapters undermine other areas in which we share philosophical agreement with the draft GAO report.

The repeated use of broad generalizations and sensationalized captions in the absence of essential factual information sharply reduces the report's utility as a basis for constructive change. General criticism of problems that we are already attempting to solve or lack the statutory ability to correct is a poor substitute for specific recommendations for positive change based upon a thorough analysis of factual data and a complete understanding of the Commission's statutory constraints and traditional regulatory role.

We urge the GAO to give serious consideration to our comments in the preparation of their final report and to replace boilerplate complaints with precise, documented suggestions for strategies to achieve the policy objectives we appear to share.

Sincerely,


Richard J. Daschbach
Chairman

[GAO COMMENT: We have given consideration to the Chairman's comments and have made changes and revisions to the report, where appropriate.]

GAO note: The page numbers in the chairman's letter have been changed, where appropriate, to correspond with the pages in the report.

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